

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ANASTACIO REYES, DEFENDANT AND APPELLANT.

G.R. No. L-2205. April 20, 1950

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

In the People's Court Anastacio Reyes was accused of treason under four counts. During the trial the prosecution presented evidence only on counts 1 and 3. After trial, he was found guilty only of count No. 3 and was sentenced to reclusion perpetua, to pay a fine of Ten thousand pesos P10,000, and to pay the costs. He is appealing from that decision.

Before the war Anastacio Reyes joined the Sakdal party which was later converted into the Ganap party. When the Japanese forces arrived in Rizal province, he joined the Japanese Kempei Tai or military police, wore blue denim as a uniform together with his fellow Filipino soldiers who had joined the Japanese military police, carried a revolver and used to accompany Japanese patrols and raiding parties. In open court he admitted that he was then and is now a Filipino citizen.

For purposes of reference we are reproducing the third count;

"3.—In or about July 1942, in Taytay, Rizal, said accused did then and there cooperate in the capture of Santiago Morales, Antonio Candelaria, Antonio La Torre, Benjamin Santos, Agustin Andres, Rosendo Marcelo, Santos Francisco and the killing of Teofilo Molano for guerrilla activities."

Although the People's Court found that the accused participated in the arrest of Santiago Morales, Antonio Candelaria, Antonio La Torre, Benjamin Santos, Agustin Andres, Rosendo Marcelo and Santos Francisco, we are inclined to agree with the Solicitor General in his contention that there is no sufficient proof of the participation of the accused in the arrest of the seven persons above-mentioned, with the exception of Rosendo Marcelo and Santos Francisco, and that, furthermore, complying with the two-witness rule in treason cases, the arrest of Rosendo Marcelo only, can be charged against the appellant. Santos Francisco was the only witness who testified as to his own arrest, which was effected by four Japanese soldiers and seven Filipinos, including appellant Reyes, belonging to the United Nippon, an association organized to aid the Japanese. The raiding party took Santos Francisco to the house of Rosendo Marcelo for the latter was also arrested by the same raiding party. This arrest of Rosendo Marcelo was testified to by both Santos Francisco and Rosendo Marcelo, thereby complying with the two-witness rule. Francisco and Marcelo were taken to the Municipal building of Taytay, where they found other prisoners, the five men already mentioned, namely: Santiago Morales, Antonio Candelaria, Antonio La Torre, Benjamin Santos and Agustin Andres. From the presidencia of Taytay the seven prisoners were taken in a truck to the Kempei Tai Headquarters in Pasig and later to the municipal jail where they were kept; and it is said that for about a week they were given no food.

After about two months confinement the seven prisoners were taken to the barrio of Munson, to a place where a big hole had already been dug. There, five of the prisoners were executed by the Japanese by gunfire. Only Santos

Francisco and Rosendo Marcelo were spared and, after being lectured to and threatened that if they did not keep away from the guerrillas, they would suffer the same fate as their fellow prisoners, they were released. But there is no proof that the accused was present and formed part of the Japanese force that did the killing.

There is no question that Santos and Marcelo were arrested because they were then guerrillas and suspected if not known as such. Previous to their arrest, a Japanese patrol had a skirmish with guerrilla forces and the Japanese were able to confiscate a list of guerrilla members where the names of Santos and Marcelo appeared. There is also evidence to show that sometime in July, 1942, about thirty Filipino soldiers, including defendants Reyes, all members of the United Nippon, went to the barrio of Bangyad, Taytay, to arrest some guerrillas who were supposed to be buying fish. They were surrounded but one named Teofilo Molano tried to escape. He was fired upon and killed. The killing of Molano was fully established by several witnesses but the presence of the accused on that occasion is established only by a written statement (Exhibit G) given before the Counter Intelligence Corps (CIC) of the United States Army, wherein he stated that he formed part of the patrol and that they fired at Molano because he was trying to escape. The Office of the Solicitor General claims that although this does not satisfy the two-witness rule, nevertheless, it should be considered inasmuch as this does not in fact prove treason but only serves to aggravate the commission thereof.

The accused puts up the defense of alibi, claiming that during the whole year of 1942, he was employed in the carriage factory of his employer Latino Guevarra and the latter was introduced to support said theory. The People's Court rightly rejected this claim not only because the witnesses for the prosecution assured the court that they had seen the accused acting as a member of the Japanese Military Police and helping said organization in the apprehension of Filipino guerrillas, but also because witness Guevarra himself in his statement (Exhibit H) stated therein that when the Japanese occupied Pasig, the accused left the factory and joined the Japanese Kempei Tai and even demanded the surrender of and confiscated the pistol which Guevarra kept. Furthermore, some of the very witnesses presented by the defense partly corroborated the theory of the prosecution about appellant's adherence to the Japanese and his part in apprehending guerrillas. Juan Antonio, a major in the Marking Fil-American Guerrilla, testifying for the defense, said that appellant Reyes was a Makapili, and Serafin Hernandez, a First Lieutenant of the ROTC Hunders of the underground movement, said that he (Hernandez) being a guerrilla, avoided the accused because he feared him.

In conclusion, we find the guilt of the accused established beyond reasonable doubt. Although the Solicitor General recommends the imposition of the death penalty, we agree with the People's Court that said accused will be sufficiently punished with the penalty of reclusion perpetua imposed upon him. The decision appealed from is hereby affirmed, with costs.

Moran, C. J., Ozaeta, Pablo, Bengzon, Tuason, and Reyes, JJ., concur.

MORAN, C. J.:

Mr. Justice Paras and Mr. Justice Padilla voted for affirmance.

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