

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. MANUEL BAÑEZ ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. L-26. August 31, 1946

Ponente: MORAN, C.J.

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MORAN, C.J.:

This is an appeal from a judgment of the Court of First Instance of Manila after a joint trial of criminal cases Nos. 70021 and 70022.

In criminal case No. 70021, Manuel Bañez, Estanislao Tauyan, Marciano Medina, Maximo Feliciano, Pablo Senson, Lorenzo Samano, Alfredo Rivera, Maximo Pabalan, Francisco Feliciano and Arcadio Castro were found guilty of the murder of Ernesto Lorenzana, and sentenced to (a) reclusion perpetua, with the exception of the minor Francisco Feliciano who was ordered committed to the Philippine Training School for Boys until he reaches the age of majority; (b) to indemnify the heirs of the deceased in the sum of P2,000; and (c) to pay the costs. The defendants appealed except Manuel Bañez and Maximo Pabalan, and except Pablo Senson, Alfredo Rivera and Arcadio Castro who remain unapprehended.

The evidence of the prosecution in this case shows that on February 22, 1945, at about the hour of 6 o'clock in the evening, Ernesto Lorenzana was in a dice game at Solis Street, Tondo, Manila, when three men took him away in a carretela and brought him to a place in Blumentritt Street known as the headquarters of Company "G," 51st Infantry, Ramsey Guerrilla Unit. Subsequently, he was transferred to the house of a certain Totoy del Rosario, wherein he was investigated on alleged charges of espionage for the Japanese, and around the premises of which he was beaten to death.

On February 23, 1945, upon complaint filed by Rosendo Lorenzana, father of deceased Ernesto, the Criminal Investigation Division of the United States Army, initiated an inquiry into the case. On February 27, 1945, in an exhumation conducted by said Criminal Investigation Division near the house of Totoy del Rosario, the putrifying corpse of Ernesto Lorenzana, among several others, was unearthed, and identified by Rosendo Lorenzana as that of his son. Whereupon, appellants were apprehended and submitted to individual investigations, in the course of which they made and signed the sworn statements appearing in the record of this case.

In criminal case No. 70022, the evidence shows that on or about February 22, 1945, Virgilio and Emilio Beltran, brothers, were apprehended and investigated at the headquarters of Company "G," 51st Infantry, Ramsey Guerrilla Unit, on charges of espionage and pro-Japanese activities. After the investigation, the brothers were executed. Also, the house of Virgilio Beltran was raided and his furniture carted away.

On February 23, 1945, Francisca Capulong, wife of Virgilio Beltran, complained to the Criminal Investigation Division of the killing of her husband and his brother Emilio. Upon investigation, and in the same exhumation conducted in the first case, among several corpses unearthed, two were identified as those of the Beltran brothers. The Criminal Investigation Division then arrested the herein defendants and questioned them, obtaining the sworn declarations now appearing in the record of this case. They were then formally accused, tried and found guilty of

the murders of Virgilio and Emilio, and sentenced to reclusion perpetua; to indemnify the heirs of the deceased in the amount of P2,000 and to pay costs. From the judgment only the following appealed: Lorenzo Samano, Epifanio Carballo, Avelino Alcantara and Ricardo Cubillas. Narciso Alvarez did not appeal. Juanito Magalis, Timoteo Cruz and Benjamin Cochon are still at large.

The evidence of the defense tends to prove, among others, that the victims, Ernesto Lorenzana in the first case, and Virgilio Beltran and Emilio Beltran in the second case, were all Japanese spies.

After going over all the record, we find no evidence in both cases showing the guilt of the appellants beyond reasonable doubt. Defendant Manuel Bañez admitted in his extra judicial confession having struck Lorenzana thrice on the head with a hammer, and defendant Timoteo Cruz in his extrajudicial confession admitted having stabbed Virgilio Beltran with a dagger. As above stated, Timoteo Cruz is still at large and Manuel Bañez did not appeal. As to the appellants, in their individual extrajudicial declarations, none of them has admitted having participated in the killing of either Lorenzana or the Beltran brothers. Some of them admitted having been present at the time of the killing, and others, that they were away. But it is a well-known rule that, without proof of conspiracy, mere passive presence at the scene of another's crime does not constitute complicity. (*People vs. Silvestre and Atienza*, 56 Phil., 353.)

The admissions of Samano and Alcantara to the effect that they had acted as guards near the place of the crime do not prove complicity, because they did so in obedience to superior orders and without knowledge that the Beltran brothers, who were then under investigation, would later be killed.

In the extrajudicial declarations made by some of the appellants, there are facts stated which incriminate their co-appellants. But again, well-known is the rule that the statement made by a defendant is admissible against him, but not against his co-defendants, unless there is conspiracy proved by evidence other than the statement itself, and that such statement is made in connection with the conspiracy and during its existence. (Rule 123, section 12.) These requirements are not present in the instant cases.

For all the foregoing and upon the recommendation of the Solicitor General, the judgments appealed from in these two cases are reversed and the appellants acquitted, with costs de oficio.

Paras, Feria, Pablo, Hilado, Bengzon, Briones, Padilla, and Tuason, JJ., concur.

CONCURRING OPINION

PERFECTO, J.:

On May 26, 1945, two informations for murder were simultaneously filed in the Court of First Instance of Manila, initiating cases Nos. 70021 and 70022, now before us as L-26 and L-27. The alleged victim in the first case is Ernesto Lorenzana and in the second are Virgilio Beltran and Emilio Beltran, the three having been killed on February 22, 1945. By agreement between prosecution and defense, the two cases were jointly tried.

In the first case, there are ten accused: Manuel Bañez, Estanislao Tauyan, Marciano Medina, Maximo Feliciano, Pablo Senson, Lorenzo Samano, Alfredo Rivera, Maximo Pabalan, Francisco Feliciano, and Arcadio Castro. Three of them—Pablo Senson, Alfredo Rivera, and Arcadio Castro—were still at large when the case was tried and decided in the lower court. The remaining seven were convicted in the lower court and each and everyone of them, excepting Francisco Feliciano who is a minor (12 years of age), was sentenced to reclusion perpetua and to indemnify the heirs of the deceased Ernesto Lorenzana jointly and severally in the sum of P2,000, and to pay the costs. The sentence against Francisco Feliciano was suspended until he reaches the age of majority when he shall

appear before the court for a final determination of his case. Manuel Bañez and Maximo Pabalan did not appeal. The appellants are: Estanislao Tauyan, Marciano Medina, Maximo Feliciano, Lorenzo Samano, and Francisco Feliciano.

In the second case, there are eight accused: Lorenzo Samano, Narciso Alvarez, Timoteo Cruz, Epifanio Carballo, Avelino Alcantara, Ricardo Cubillas, Juanito Mañgali, and Benjamin Cochon. When the case was tried and decided in the lower court, three were still at large: Timoteo Cruz, Juanito Mañgali, and Benjamin Cochon. The remaining were found guilty and sentenced, each and every one of them, to reclusion perpetua, to indemnify the heirs of Virgilio Beltran and Emilio Beltran jointly and severally in the sum of P2,000, and to pay the costs. Narciso Alvarez did not appeal. The appellants are: Lorenzo Samano, Epifanio Carballo, Avelino Alcantara, and Ricardo Cubillas.

Seven witnesses testified for the prosecution:

(1) John F. Lockwood, special agent of the Criminal Investigation Section, Provost Marshal's Office, testified that he investigated the defendants who, in the course of the investigation, gave written statements. Witness happened to investigate the cases through the complaint of Rosendo Lorenzana, father of deceased Ernesto Lorenzana, and Francisca Capulong. Witness identified Exhibits A and A-1, as written statements taken from Manuel Bañez; Exhibit B, as that of Estanislao Tauyan; Exhibit C, as that of Marciano Medina; Exhibit D, as that of Maximo Feliciano; Exhibit E, as that of Lorenzo Samano; Exhibits F and F-1, as those of Francisco Feliciano; Exhibit G, as that of Pablo Senson; Exhibit H, as that of Arcadio Castro; Exhibits I, I-1 to I-9 as photographs taken by a special agent of the Photo Department of the Criminal Investigation Section in the presence of witness at 393 Elias Street. Witness identified Exhibit J, as the hammer produced by Manuel Bañez in connection with his statement Exhibit A; Exhibit AA, as written statement of Lorenzo Samano; Exhibit BB, as that of Narciso Alvarez; Exhibit CC, as that of Timoteo A. Cruz; Exhibits DD and DD-1, as those of Epifanio Carballo; Exhibit EE, as that of Avelino Alcantara; Exhibit FF, as that of Ricardo Cubillas, Exhibit GG, as that of Juanito Marigali; Exhibit HH, as that of Benjamin Cochon; and Exhibits II, II-1 and II-2, as photographs taken in the presence of witness. He identified also Exhibit JJ, as the lead pipe which witness found near the grave where the alleged victims were buried. Witness testified that no written statements were taken from Maximo Pabalan and Alfredo Rivera. In his investigation, Maximo Pabalan stated that on February 22, 1945, he just arrived from the province at about 3.30 o'clock in the afternoon.

(2) Felipe Santos testified that he was a guerrilla since 1943, and on February 22, 1945, he belonged to the 45th regiment with headquarters at Blumentritt. Exhibit KK is the appointment issued to him by Captain Lorenzo Cobarrubias. Virgilio Beltran was a first lieutenant and Emilio Beltran a master sergeant in the organization. On February 22, 1945, at about 9 o'clock in the morning, Emilio and witness were together. On that morning, Lorenzo Samano passed by the headquarters and called Emilio, who told the witness: "I am going out for a while because I am going to talk with Loring." The witness saw them talking but did not know where they went because he was busy on that occasion. He did not see Emilio since that time. The witness investigated what happened, "but I did not disclose any fact leading to the discovery."

Witness saw Virgilio Beltran at 6 o'clock on the morning of February 22, 1945, because witness relieved him from duty. Virgilio went out from the headquarters and that was the last time the witness saw him. Witness identified Exhibits LL and MM as appointments issued by Cobarrubias to Emilio Beltran as master sergeant and to Virgilio Beltran as first lieutenant, respectively. Witness mentioned Emilio Beltran as his brother-in-law "because my wife and his wife are first cousins."

(3) Merle K. Miller, a captain in the United States Army Corps, Military Police, connected with the office of the

Provost Marshal as commander of the 35th Investigation Section, declared that he is the same Miller mentioned in Exhibit A. Bañez is the one who pointed out to Agent Lockwood and to the witness a mound of earth allegedly the place where Lorenzana was buried.

(4) Ricardo Lorenzana, inspector of the secret service of the Manila Police Department, with which he is connected since December 24, 1910, testified that he is the father of Ernesto Lorenzana whom he saw the last time on the morning of February 22, 1945. He left him in the house, and in the afternoon, when he arrived at Calle Solis, he was informed by his eldest daughter that Ernesto was taken by five unknown persons riding in a carretela. In the morning of February 27, 1945, the body of Ernesto was dug in a yard in Calle Elias, and witness identified it through the clothes he was wearing. Witness indicated the persons and places appearing in photographs Exhibits I to I-9. Witness did not know any of the ten defendants in the first case. On cross-examination, the witness testified that he was present when Ernesto put on his clothes on February 22. The body was wearing "under drawers, no clothes, no pants." There were other bodies found also in other holes in the same yard, but the witness did not pay attention to what they were wearing. The witness was informed of his son's death only on February 26 by Lockwood. His son Ernesto was enrolled in the Metropolitan Constabulary during the Japanese regime.

(5) Max Davidson, Captain, Medical Corps of the United States Army, Medical Officer in the 5th Hospital and practising physician since 1937, identified Exhibits K and MM as the result of the post-mortem examination performed by him on February 27. The five dead bodies were found at 393 Elias Street where witness went personally in the company of Lockwood. The bodies were opened and displayed on February 27.

(6) Crisanto Santos testified that on February 22, 1945, he was living at Solis. He knows Ernesto Lorenzana because the latter was his neighbor. The last time he saw him was between 5 and 6 o'clock in the afternoon playing dice at Solis Street. "We were playing dice near the store when suddenly Wenceslao stopped our game. At the time he stopped the game he saw Lorenzana. I saw Marcial forcing and telling Lorenzana to go with them. Anyhow, Lorenzana protested and said, 'what is the cause of taking me,' and Marcial said, 'they will have a sort of investigation at the headquarters.' Lorenzana said, 'you can investigate me in this place,' but that was not done. He was brought to the carretela and the very time that he was in the carretela they rode away and we do not know where he was brought. But Lutgardo Villareal asked Wenceslao where he was to be brought and Wenceslao said that he was to be brought to the headquarters for investigation, and that is all." The witness identified accused Marcial Medina and Estanislao Tauyan. Since then, witness did not see Ernesto any more.

(7) Trinidad de Leon testified having taken down, as stenographer, Exhibits I and I-A as statements taken from Manuel Bañez. Bafiez related the story in Tagalog. The witness took it down both in stenographic and longhand notes, and, after transcribing them, he translated them into English. Witness identified Exhibit B as statement of Estanislao Tauyan, Exhibit D, as that of Marcial Medina, Exhibit E, as that of Maximo Feliciano. Later, upon the prosecution's proposal, the defense admitted that Exhibits A up to H in case No. 70021 and AA to HH in case No. 70022 are the respective statements of the accused which were taken down by the witness in Tagalog and translated by himself into English.

The prosecution rested after presenting in case No. 70021 the exhibits marked with single letters and in case No. 70022 those marked with double letters.

Eight witnesses testified for the defense.

(1) Faustino Jimenez testified that he knew Ernesto Lorenzana because he used to be on patrol on Lico Street as policeman. At 12 o'clock midnight of Good Friday, 1944, Ernesto, accompanied by two unknown Filipinos, "came to my house and they knocked at my door. When I opened the door for him he asked me to produce a

revolver because according to him I was a guerrilla. He took me with him to a car. When at first I did not want to go with him, he told me that he was a Kempei of the Japanese. It means spy." The witness had to go with Ernesto "because he maltreated me. He gave me fist blows and he kicked me while I was inside the car, because according to him I was a guerrilla and I could not produce a revolver." The witness was taken to a Japanese garrison in Marikina. They arrived about 3 o'clock in the early morning. In Marikina, Ernesto struck the witness, who was delivered to three Japanese. "After turning me over to the three Japanese, they slapped me and struck me. They wanted me to produce that revolver that Lorenzana wanted me to produce." Lorenzana came back after the lapse of five days. "He insisted that I admit that I was a guerrilla and that I should surrender the revolver. He maltreated me and wanted me to admit that I was a guerrilla and that I should produce the revolver." The witness remained in Marikina garrison 17 days. The Japanese released him.

(2) Carlos P. Navarro, mechanical engineer, declared that he is a member of the guerrilla, being a major of the 51st Infantry Regiment which is under the East Central Luzon Guerrilla Army or specifically under Major Ramsey. "I have entered this guerrilla army since 1942 when it was originally organized under Col. Alejandro Santos." The witness knows Lorenzo Samano, Narciso Alvarez, Timoteo Cruz, Epifanio Carballo, and Avelino Alcantara as members of the same guerrilla outfit, 51st Infantry Regiment. They were under the command of the witness during Japanese occupation. The witness knows the Beltran brothers "to be connected with the Japanese military police during the Japanese regime." They were spies. "I have them investigated around their neighborhood. Almost every person is well-known where he lives as to his activities, as to his character and comradeship. Among the people that these two brothers had done wrong was a certain woman and a brother whom these people threatened and robbed and murdered in Pambundok, La Loma." The United States Army gave instructions to the guerrilla forces "to apprehend Filipinos who might be suspected as pro-Jap and then bring them to the CIC for investigation." Witness is not sure whether the accused received the order from the United States Army. When the Americans arrived in Manila "all our men were on field work. They kept on moving with the Americans when the Americans started cleaning up North Bay and later on started the offensive on the other side of the river, plenty of these men were still with the American forces on the south bank of the river." Witness identified Exhibit 33 as the usual form of the oath before a guerrilla is inducted.

(3) Leopoldo Rivera, guerrilla, 1st Lieutenant, inducted since 1942, knows the five accused 'guerrillas' Lorenzo Samano, Narciso Alvarez, Timoteo Cruz, Epifanio Carballo and Avelino Alcantara. At the time of the coming of the Americans in Manila, witness instructed his men "to get all Japanese collaborators and Japanese spies." They must arrest them and "if they try to resist, to shoot them." The witness investigated the Beltran brothers and he found out that they were spies. Virgilio Beltran was marked in his forehead with the tattoo of a spy, although witness did not see it personally.

(4) Cristina Samaniego, 26 years old, testified that she is the widow of Domingo de Belen who died two months before the Americans arrived. "Emilio and Virgilio Beltran got my husband from our house. They were then accompanied by the Japanese military police because they were, according to them, taking my husband because he was a guerrilla." Virgilio and Emilio Beltran searched the house, and after "they maltreated my husband, they got him and from then on I never saw him any more up to the present time." The witness was living with her husband at 194 Iriga, about ten meters from the house of Beltran brothers, who are Japanese spies, because "during the Japanese occupation they were responsible for the taking of my husband and other Filipinos," At that time the witness saw the Beltran brothers armed. Her husband was a laborer in Tutuban. Emilio and Virgilio Beltran were also members of the guerrilla forces. "I came to know that they became guerrillas only after the arrival of the Americans."

(5) Gregoria Gison testified that she knows the Beltran brothers who "were Japanese spies." The witness knows

Crispin and Mercedes Dalan. "They were brought by Virgilio Beltran to our house. They were tied, their hands at the back. They were taken out of the house. Their eyes were covered. They were taken to the cemetery. Shortly afterwards, we heard two shots." Since then the witness did not see again Crispin and Mercedes Dalan. The happening took place before the arrival of the Americans in Manila. Witness saw Beltran brothers in the company of the Japanese military police and they were armed with guns. The witness notified the guerrilla forces after the Americans arrived of what happened to Crispin and Mercedes Dalan. The person she noticed was accused Avelino Alcantara.

(6) Aurora Sabas testified that she knew the Beltran brothers when they came to witness's house at 29 Isarog, Quezon City. They took from the house a boy who was living with the witness and his sister who arrived later in the house. The boy and girl evacuated "to my house" and they were Crispin and Mercedes Dalan. The Beltran brothers took also from the house "my furniture and the furniture of those people who evacuated to my house." Since then, witness did not see again Crispin and Mercedes Dalan. Marcelino Moral of the Police Department, is witness's husband, who was taken by the Japs. Beltran brothers told the witness that "they were guerrillas under the Americans and that those people who were living at my house were formerly servant and maid servant of a certain Japanese." The witness did not ask the Beltran brothers for their identification. "I saw they were armed with carbine and hand grenade." They came to the house "for three successive days." "Had been taking furniture." The witness saw personally the taking of the girl against her will, but she did not tell the authorities, because "I was afraid that I would be taken."

(7) Manuel Bañez, 23 years old, testified that he was detained at the Bilibid Prisons five days before his investigation, during which no visitors were allowed to see him, even any lawyer. His relatives were not allowed to bring food to him. His statements Exhibits A and A-I were taken by threats. "Lockwood told me that if I would not tell the truth he was going to hang me by that rope that was hanging there. He held me by the neck and told me that if I would not tell the truth and the whole truth, he would give me fist blows. That he was going to help me if I was going to tell the truth." That is, he was to be released. "During the time that I was confined in the prison I used to be given food only twice a day, once at 10 o'clock and another at 4 o'clock. Most of the time I was hungry. During the investigation Lockwood gave me cigarettes after cigarettes so after smoking I became groggy and somewhat weakened." The witness became a guerrilla lieutenant on account of his activities during the Japanese occupation.

(8) Prospero Sanidad, 46 years old, residing at 3147 Blumentritt, San Juan, Assemblyman from Ilocos Sur, testified that previous to the coming of the Japanese to these Islands, he was a member of the Philippine Congress. He declared: "I came here in the capacity as liaison officer of the United States Army Guerrilla in the Island of Luzon and as such it came to my possession this document (Exhibit 44) which was sent to me by the Commanding Officer of the ECLGA, Major Ramsey, relative to the genuine status as guerrillas of the persons named in the document and which I understand are accused of the crime of murder." The witness identified the signature appearing on Exhibit 44.

After going over all the record, we found that no evidence appears to have been produced to show that appellants in both cases had participated in the killing of either Lorenzana or the Beltran brothers, or that they had cooperated in the commission of the murder charged in each information.

The corpus delicti in both cases has not been established. From the photographs on record it can be seen that it is next to impossible to identify the several bodies exhumed on February 27, 1945. All the exhumed bodies were, as can be seen from the photographs, in an advanced state of decomposition, and some of them were not completely uncovered when they were examined. The certificate issued by Captain Davidson on March 15, 1945, Exhibit K, fails to enlighten us as to the identity of the five disinterred bodies. It is true that Ricardo Lorenzana, as

prosecution witness, tried to show that he was able to identify one of the corpses as belonging to his son Ernesto; but we can not give much reliance on his testimony, not only because of his special relationship with the victim, but because his identification was based on the clothes the body was wearing which, according to his own words, were "under drawers, no clothes, no pants." The witness even failed to set a basis of comparison between the "under drawers" which he maintained belonged to his son and the clothes of the other bodies to which he purposely did not pay attention.

Not a single appellant has admitted having participated in the killing of either Lorenzana or the Beltran brothers. Some of them stated that they were away, such as Maximo Feliciano and Arcadio Castro in case L-26, and Juanito Mañgali, Benjamin Cochon, and Epifanio Carballo in case L-27, and the other appellants only admitted being present at the time the deceased were killed but without in any way participating in the killing. It is a settled doctrine that in the absence of other proof, mere passive presence at the scene of another's crime, mere silence and failure to give alarm, without evidence of agreement or conspiracy, do not constitute the cooperation required by article 14 of the Penal Code for complicity, in the commission of the crime witnessed passively. (People vs. Silvestre and Atienza, 56 Phil., 353.) Moreover, it was held that naked extra-judicial admissions are not sufficient to sustain conviction. (People vs. Isleta, G. R. No. 43078, August 28, 1935; United States vs. Agatea, 40 Phil., 596, 601; People vs. Gervasio, G. R. No. 45959, June 13, 1938.)

Samano's and Alcantara's admissions that they were at the time acting as guards near the place where the Beltran brothers were allegedly executed do not make them guilty as accomplices, because it was not shown that the acts performed by them were material or in any way contributed to the success of the commission of the crime. (People vs. Tamayo, 44 Phil., 38.) Furthermore, it must be remembered that Samano performed guard duty while the Beltran brothers were being investigated; and he had no knowledge that they were going to be killed; and Alcantara was ordered to stand guard outside the premises because he refused to stuff the mouth of the victims, showing that he did not wish to have anything to do with what the others intended to do.

What evidence can be pointed as to the actual killings, the circumstances surrounding them, and as to their authors, may only be found in the statements made by the defendants Manuel Bañez, Pablo Senson, Timoteo Cruz, and Narciso Alvarez; but none of them is among the appellants in either case, and although said statements may adversely affect some of the appellants, no conspiracy having been established, they cannot be considered as evidence against them.

This Court has ruled consistently that the extrajudicial admission of an accused is admissible in evidence only against himself, but not against his co-accused. (United States vs. Castillo, 2 Phil., 17; United States vs. Paete, 6 Phil., 105; People vs. Tabuche, 46 Phil., 28; United States vs. Vega, 43 Phil., 41; People vs. Durante, 47 Phil., 654, 658; People vs. Orenciada and Cenita, 47 Phil., 970; People vs. Badilla, 48 Phil., 718, 725, 726.)

In order that said statements may be accepted in evidence against appellants, the conspiracy must be shown by evidence other than said statements, according to section 12, Rule 123, of the Rules, which provides:

"Sec. 12. Admission by conspirator.—The act or declaration of a conspirator relating to the conspiracy and during its existence, may be given in evidence against the co-conspirator after the conspiracy is shown by evidence other than such act or declaration."

The rule that the conspiracy must be established by evidence aliunde has not been followed in these cases, because, besides said statements, not a single witness has testified on the participation of appellants in the commission of the crimes charged, not one of the alleged conspirators was produced to testify against appellants, and no other kind of evidence has been presented by the prosecution to show conspiracy. As Chief Justice Moran,

commenting on section 12 of Rule 123 in his Law on Evidence, pointed out, in order that a conspirator's extrajudicial confession or admission may be admitted against his co-conspirator, it is necessary that (a) the conspiracy be first proved by evidence other than the confession or admission; (6) it be made after the formation of the unlawful agreement and before it has come to an end; and (c) it be made in furtherance of the objects of the conspiracy, elements which do not exist in the present case with regards to the statements in question.

In view of the conclusion we have already arrived at in this case, we deem it unnecessary to decide the question as to whether appellants were justified and, therefore, should be absolved from criminal responsibility because the deceased Lorenzana and the Beltran brothers were Japanese spies, who had fired with the Japanese against guerrillas, including appellants; had caused the arrest by the Japanese of several Filipinos, including guerrillas and nonguerrillas; had killed others, like the Dalan brothers; had raped the Dalan girl; and themselves were caught by the accused and then killed when the battle for the liberation of Manila was still raging.

There being no evidence to show that appellants are guilty beyond all reasonable doubt of the crimes charged in the informations, they are entitled to acquittal and, with the reversal of the lower court's decision, we absolve them from all criminal responsibility in these two cases, with costs de oficio.

Judgments reversed; defendants acquitted.

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