

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. CEFERINO BARTIQUIN, DEFENDANT AND APPELLANT.

*G.R. No. L-2063. June 24, 1949*

Ponente: PERFECTO, J.

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### PERFECTO, J.:

Appellant has been accused of treason on the following five counts of the information:

"1. That in or about March or April 1944, in Barrio Cabulihan, Ormoc, Leyte, for the purpose of giving and with intent to give aid and/or comfort to the enemy, the abovenamed accused, Ceferino Bartiquin, who was then barrio lieutenant of Cabulihan, Ormoc, Leyte, taking undue advantage of his public position as such barrio lieutenant and accompanied by several barrio policemen, did then and there willfully, unlawfully, and feloniously, arrest and apprehend Teofilo Aseledano, supply sergeant of the guerrillas, and forthwith brought him to the Japanese Military garrison at Valencia, Leyte, where he was killed by the Japanese;

"2. That in or about May, in barrio Cabulihan, Ormoc, Leyte, for the purpose of giving and with intent to give aid and/or comfort to the enemy, the above named accused, Ceferino Bartiquin, in his aforesaid capacity as barrio lieutenant of Cabulihan, Ormoc, Leyte, and taking advantage of his public position as such barrio lieutenant, did then and there willfully, unlawfully and feloniously join and accompany a patrol consisting of around five soldiers for the purpose of arresting Faustino Bañez, a guerrilla, but upon finding that said Faustino Bañez was not then in the house, the said accused and soldiers took and brought with, them Manuela Roman and Anatalia Bañez, mother and sister respectively of said Faustino Bañez, as hostages, to the Japanese military garrison in Dolores, Leyte, where the mother was bayoneted to death and the sister seriously wounded and left for dead by the Japanese, but she had been rescued by the guerrillas and had been an invalid ever since until she died in March, 1945.

"3. That in or about May, 1944, in Barrio Masaraw, Ormoc, Leyte, for the purpose of giving and with intent to give aid and/or comfort to the enemy, the above named accused, Ceferino Bartiquin, in his public position as such barrio lieutenant, did then and there willfully, unlawfully and feloniously accompany and guide a Japanese patrol consisting of about nine soldiers for the purpose of looking for guerrilla officers, and soldiers, and in the course of such patrol, they met Antonio Casiano, who was investigated, questioned and searched by the said accused, and that inspite of the fact that no incriminating evidence was found by the accused in the person of Antonio Casiano, the said accused, for the purpose of giving and with intent to give aid and/or comfort to the enemy, willfully, unlawfully and feloniously informed the Japanese soldiers that said Antonio Casiano was a guerrilla and took from him the sum of P10, but the said Antonio Casiano was released and allowed to go home by the Japanese on the plea that his wife had just given birth.

"4. That in or about December, 1943, in barrio Cagbuhangin, Ormoc, Leyte, for the purpose of giving and with intent to give aid and/or comfort to the enemy, the above named accused, Ceferino Bartiquin, in his aforesaid capacity as barrio lieutenant of said barrio and taking undue advantage of his said public position and accompanied by about nine armed Japanese and Filipino soldiers, did then and there unlawfully, willfully and feloniously arrest and apprehend Damian Burlas on suspicion of being a guerrilla; that when the wife of said Damian Burlas saw her husband being tied, she started to cry for which the above named accused willfully,

unlawfully and feloniously struck her with his fists and also her two-year old daughter under the eye, as a result of which the latter immediately became sick and her eye became swollen and discolored and remained in that condition until she died.

"5. That in or about April, 1944, in barrio Cagbuhangin, Ormoc, Leyte, for the purpose of giving and with intent to give aid and/or comfort to the enemy, the above named accused, taking undue advantage of his public position as barrio lieutenant and accompanied by his son, Arturo Bartiquin and a group of Japanese and Filipino soldiers, did then and there willfully, unlawfully and feloniously approach one Demetrio Rita and told him to work on the Japanese landing field at Valencia, Leyte, and upon being informed by said Demetrio Rita that he refused to work because he was still a guerrilla and that if he would do so he would be a traitor to his country, the said accused willfully, unlawfully and feloniously tied the hands of said Demetrio Rita, confiscated his pistol and struck him with a large rock below the left ear, knocking him to the ground; that once the said Demetrio Rita was lying prostrate on the ground, the said accused willfully, unlawfully and feloniously continued to kick and hit him with the butt of his rifle and forthwith brought him to the Japanese Military garrison at Valencia, Leyte, where he was maltreated and tortured for about one week after which he was able to escape as a result of a skirmish which the Japanese had with the guerrillas."

The trial court found him guilty on four counts and sentenced him to reclusion perpetua and to pay a fine of P5,000 and the costs.

Appellant was the barrio lieutenant of the adjoining barrios of Cabulihan and Cagbuhangin, Ormoc, Leyte, since he came down from the mountains in August, 1942.

Candida Udan testified that appellant reported to the Japanese soldiers that her son, Teofilo Aseledano, a supply sergeant of the guerrillas, was the one who cut the telegraph lines. Eduarda Aseledano, Teofilo's aunt, testified that in the morning of March 21, 1944, five Japanese soldiers and appellant went to her house looking for Teofilo. Ciriaco Laguna, a barrio policeman, testified that he arrested Teofilo as a guerrilla at about 3 o'clock p. m. of March 21, 1944, on orders of appellant, to whom he brought Teofilo. Appellant tied Teofilo's hands behind his back and, with Tirso Estrera, brought Teofilo to the BC headquarters at Valencia. Basilio Cudilla testified that he saw appellant in his own house tying the hands of Teofilo on March 21, 1944, that appellant told Yap, a BC officer, that Teofilo was a guerrilla, that Yap and appellant pummeled Teofilo with blows and that the Japanese soldiers took Teofilo to the garrison accompanied by appellant.

The above are the testimonies in support of count one of the information.

In support of count two, Sabina and Patrocinio Ibañez, sister and brother, testified that in May, 1944, leading a patrol of Japanese and BC soldiers, appellant went to their house in barrio Cabulihan looking for their guerrilla brother, Faustino Ibañez, who was not then in the house. Appellant, assisted by two Japanese and two BC soldiers, searched the house, after slapping Eutiquio Ibañez, and then took his mother and sister Anatalia Ibañez as hostages at their garrison.

In support of count four, Marcelo Lonzaga and his wife, Aniceta Chaquin, testified that about the last week of December, 1943, appellant came to their house in barrio Cagbuhangin, while Marcelo and his neighbor Damian Burlas were at the balcony. Shortly after, Japanese soldiers arrived. Appellant immediately took hold of Burlas and told the Japanese that the latter is a genuine guerrilla soldier they were looking for Marcelo managed to escape unnoticed.

In support of count five, the prosecution proved through the testimonies of Elpidio Ico and Demetrio Rita, that the latter was arrested one day of the last week of April, 1944, in a small house in Katayong. When Demetrio came down from said house appellant seized and tied him aided by BC soldiers. Then they beat him hitting him on the lips with a stone after which Demetrio was taken to the Japanese garrison at Valencia where appellant told Elpidio

to go home.

It appears that Demetrio was detained for three days during which the Japanese investigated him about the guerrillas and was only able to escape during an encounter between a Japanese patrol and the guerrillas in the mountains where he was taken by the Japanese patrol.

After considering the evidence, we are not satisfied that the two-witness rule of article 114 of the Revised Penal Code has been complied with by the prosecution as regards count one of the information. There is no single overt act relating to said count upon which, at least, two witnesses had testified.

Regarding the actuations of appellant in the Ibañez' house when the patrol of which he was a part was looking for a guerrilla. Faustino Ibañez, the testimonies of Sabina and Patrocinio Ibañez had satisfied fully the two-witness rule, and upon their testimonies conviction is fully justified.

The rule is also fully satisfied with the testimonies of Marcelo Lonzaga and his wife Aniceta Chaquin with respect to the arrest of Damian Burlas, the subject of count four of the information. Under the same rule, there is enough basis to convict appellant of count five of the information regarding the arrest of Demetrio Rita testified to by the latter and Elpidio Ico.

Appellant tried to exculpate himself by alleging that he had been a guerrilla and by his claim that he merely tried to maintain peace and order as barrio lieutenant. We have already said in *People vs. Victoria*, L-369 (44 Off. Gaz., 2230) that any meritorious service to the guerrilla movement, would not condone overt acts of treason. Furthermore, the acts perpetrated by appellant in searching for guerrillas, who are not criminals endangering the rights of peaceful people, cannot be justified as official functions of a barrio lieutenant for keeping peace and order. They were overt acts of aid and comfort to the enemy.

The facts proved by the evidence on record show that appellant, a Filipino citizen, is guilty beyond doubt of the crime of treason. The sentence rendered against him by the trial court being in accordance with law is affirmed with costs.

Moran, C.J., Ozaeta, Paras, Feria, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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