

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. FRANCISCO CASTILLO, DEFENDANT AND APPELLANT.

*G. R. No. L-4408. October 30, 1951*

Ponente: TUASON, J.

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### TUASON, J.:

The appellant was prosecuted for treason on five counts in the Court of First Instance of Bulacan, acquitted on Counts 1 and 5 and found guilty on Counts 2, 3 and 4.

Under Counts 1 and 5 the defendant was charged with being a 'Makapili', bearing arm, doing sentry duty, and allied acts. The nature of the accusations under Counts 2, 3 and 4 is disclosed by the following evidence:

COUNT 2: On December 13, 1944, Fructuoso Lasam was seized as a guerrilla suspect by the appellant and companions at Lasam's store in Norzagaray, Bulacan. From his store, Lasam was taken to barrio Bayombon, San Jose, where there were already several other prisoners with their hands tied behind their back, among them being Mariano de la Merced, Pedro Maningas, Servando Perez and Mariano Cruz, all apprehended by another group of collaborators. The prisoners named, Lasam and others were later lacked up in the municipal jail and maltreated by the appellant and his confederates.

Lasam was able to escape on January 4, 1945 during the bombing of San Jose by the Americans. Other prisoners fled from the municipal jail on December 29 but two of them, Artemio Nicolas and Mariano Cruz were shot and killed as they were running off.

Fructuoso Lasam's arrest by the accused, his and some of the other prisoners' escape and the killing of Artemio Nicolas and Mariano Cruz have been established by the testimony of Fructuoso Lasam, Pedro Maningas, Nerio de la Merced and Jose L. Merced.

COUNT 3: On December 29, 1944, Primo Cruz was apprehended by the accused and some companions in his house in Norzagaray and herded in the town plaza with other persons. From the plaza, Primo and the other prisoners were marched to San Jose. Since then, none of them have been seen alive again. Primo Cruz's body was later exhumed behind a rice mill in San Jose.

On the same date, at about 2 o'clock in the afternoon, Mariano Nicolas was picked up by the appellant at a public meeting organized by Makapilis in the town plaza of Norzagaray. Nicolas was lined up with other victims some of whom were Nicolas' brother Jesus, Primo Cruz, Pedro Payumo, Francisco Punzal, Galicano Bernabe, Domingo Esteban, Mariano Esquivel and Eufonio de la Merced. With his hands bound, Mariano Nicolas was struck on the knee by a Japanese soldier and later taken, together with the other prisoners, to the Japanese headquarters. Through the pleas of his mother, Mariano Nicolas was released afterward, but the rest of the prisoners, including Jesus, Mariano's brother, were never seen again, except Payumo. The remains of these people or of some of them were recovered after liberation from a common grave in Bayombon, San Jose.

These facts have been established by the testimony of Mariano Cruz, Mariano Nicolas, Bernarda Silva and Pedro

Payumo.

COUNT 4. On December 13, 1944, the appellant and some companions raided the house of Martin de la Merced, a guerrilla major, and seized there several sacks of rice, camotes and other foodstuffs, which they carried to the municipal building of Norzagaray. The appellant with Makapilis also confiscated several cavanese of rice, a bed and chinaware from Pedro de la Merced's house on the same date.

These facts are borne out by the testimony of Enriqueta Villarama, Floerfida de la Merced, and Ignacia de la Cruz.

The defendant denied any part in the arrests, tortures and killings charged, and swore that he was a prisoner of the Japanese since December 10.

Viewed from every angle, the Government witnesses' testimony merits full credence. Notwithstanding the defendant's imputation of improper motives to these witnesses, in an effort to impeach their veracity, their testimony remained unshaken.

If the appellant has not been shown to be a Makapili under the two-witness rule, it is beyond question that he was in the service of the enemy in some other capacity, helping the Japanese in their campaign to round up and execute guerrillas. The victims were known or suspected members of the underground organization in Bulacan. The defendant's actions were not the actions of a person working under coercion.

The punishment assessed by the trial court is 20 years of reclusion temporal and P10,000 fine. Upon all the circumstances of the case, and considering that many deaths resulted from the defendant's adherence to the enemy, the appropriate penalty should be reclusion perpetua besides fine.

With this modification, the appealed decision will be affirmed with costs. So ordered.

Paras, C.J., Feria, Pablo, Bengzon, Padilla, Reyes, and Jugo, JJ., concur.  
Bautista Angelo, J., no part.

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