

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ALEJANDRO ALMAZORA, DEFENDANT AND APPELLANT.***G.R. No. L-2954. November 16, 1950*

Ponente: MONTEMAYOR, J.

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This is one of several treason cases originally filed in the People's Court but which, with the abolition of said Tribunal, were subsequently indorsed to the Court of First Instance of Laguna where the acts of treason charged were allegedly committed. The appellant Alejandro Almazora was found guilty and sentenced by the Court of First Instance of Laguna to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal with the accessory penalties provided by law, and to pay a fine of P5,000, with costs. Half of the period of his provisional imprisonment was credited to him.

Because of the nature of the penalty imposed, the appeal should ordinarily go to the Court of Appeals. Appellant Alejandro Almazora however, was tried with several treason indictees in a mass trial altho under different and separate indictments. The evidence presented during the mass trial applies to all the treason defendants including the appellant. What is more, the acts of treason charged against the several accused were supposed to have been committed on or about the same time or occasion. At least one of those defendants was sentenced to reclusion perpetua and his appeal including the record of the evidence naturally came to this Tribunal. That is the reason why the appeal of Alejandro Almazora also found its way to this Court, under the provisions of Section 17 of Republic Act 296 otherwise known as the Judiciary Act of 1948.

The appellant was charged under five counts. During the trial no evidence, was presented to substantiate counts 4 and 5 which were apparently abandoned by the prosecution.

The defendant ha§ admittedly always been a Filipino citizen, a native and resident of the Philippines.

Under the first count, the defendant is accused of having acted as informer or agent of the Japanese forces, going with them arid participating in their raids, and of having joined and served in the organization "Makabayang Katipunan Ng Mga Filipino" otherwise known as the Makapili. To prove this count, three witnesses Federico Baylon, Tranquilino Martinez and Briccio Malitic testified to the effect that sometime in December, 1944, a chapter of the Makapili organization was established in Calauan, Laguna by one Proceso Delgado; that the accused became a member of that organization which was composed mostly of Ganaps and Sakdalistas; that some members including the accused, armed with rifles used to accompany Japanese soldiers in raids against guerrillas and that on several occasions⁵ the accused and his fellow Makapilis actually arrested suspected guerrillas and turned them over to the Japanese. After examining the evidence we agree with the trial court that the charge under the first count was duly proven. We, however, disagree with the lower court when it held that although the evidence of the prosecution is definite, conclusive and convincing that the accused together with former members of the Sakdalista and Ganap organizations in Calauan attached themselves to and cooperated with the enemy invaders, and that armed with a rifle he took direct part in raids against the guerrillas conducted by the Japanese

soldiers, there is no direct and conclusive proof that he was actually appointed or inducted into the Makapili organization, and that consequently, the accused could not be considered as having joined the Makapili organization. In the case of *People vs. Alitagtag*, (45 Off. Gaz., 715[1]), we have held that appointment to enemy forces need not be proven by any enlistment or appointment, but may be inferred from circumstances. We are satisfied that from the acts of the accused in being seen frequently at the headquarters of the Makapili organization at Calauan, associating with well-known Makapili members, joining them in their raids against the guerrillas either by themselves or in company with Japanese soldiers, being armed with a rifle like the other Makapili members and otherwise conducting himself like any other member of that military organization, we can infer and find as we do find that he joined the Makapili organization,

Under count 2, the appellant is charged with having taken part on December 23, 1944, in the arrest in Calauan, Laguna of Norberto Ungkiatco who was suspected of being a guerrilla and who after the arrest was taken to the Japanese garrison where he was confined and tortured. To establish this count, Matias Mendoza testified to the effect that as a member of the guerrillas, he had orders to go to the poblacion of Calauan on December 23, 1944, to observe; that he entered a movie house where he was arrested by a group of armed men composed of appellant Alejandro Almazora and other Makapilis like his (appellant's) brother Mareelo Almazora, Proceso Delgado and others; that on the way to the Japanese garrison he witnessed the arrest of Norberto Ungkiatco by the same group of Makapilis; that he and Ungkiatco were taken to Makalauang Spring, then being used as a garrison by the Japanese soldiers though at the time there were no Japanese soldiers there; that at the said Makalauang Spring they were investigated by the same group, especially by Proceso Delgado. After five days Mendoza was released.

Ungkiatco stated that he was a member of the R.O.T.C. guerrillas; that he was arrested at the time and in the manner testified to by Mendoza, by the group composed of the appellant, his (appellant's) brother Marcelo Almazora, Proceso Delgado and others; that after being taken to Makalauang Spring he was investigated and tortured by Proceso Delgado; that as a result of the clubbing and torture to which he was subjected, he lost some of his teeth and one of his ribs was fractured, and that he was released after a week of confinement. We also agree with the trial court that count No. 2 was proven.

Under count 3, which refers to the arrest of Andres Ramos, Aurora Azucena told the court that on January 15, 1945, a group of armed Makapilis composed of the appellant Alejandro Almazora, his brother Marcelo Almazora, Proceso Delgado and a few others, all armed with rifles and in company with Japanese soldiers went to her house in the barrio of San Isidro, Calauan; that Proceso Delgado ordered her husband Andres Ramos to come down his house, which he did; that Proceso Delgado immediately struck him on the back of the head with the butt of his revolver, inflicting a wound; that her husband, Andres Ramos, was taken away by the group and was thereafter never heard from.

Crispin Aniceta stated in court that on the same occasion he was also arrested by the same group which included the appellant Alejandro Almazora, all of the members of which were armed with rifles; that he (Crispin) witnessed the arrest of Andres Ramos; that he and Andres Ramos and other barrio residents who had likewise been arrested were taken to the convent of the town of Calauan which was then occupied by the Makapilis and their families; that after some investigations Crispin was released but Andres Ramos was retained in the convent and was never heard from up to the date of the trial.

The trial court equally found that count 3 was duly proven. We agree with the Laguna court that two witnesses have satisfactorily established the arrest of Andres Ramos on January 15, 1945, by a group composed of the appellant and other Makapilis all of whom were armed; that after the arrest, Andres Ramos was taken to the convent in the poblacion then occupied by Makapilis where he was detained, and that thereafter Ramos did not return to his house and was never heard from.

The appellant was the only witness presented to prove his innocence. He denied the charges made against him and said that he was not at the places and on the occasions where and when he was alleged to have helped in the arrests and investigations of guerrilla suspects like Matias Mendoza, Norberto Ungkiato, Andres Ramos and Crispin Aniceta. He equally denied that he ever joined the Makapili organization. He claims that the witnesses who testified against him hated his father who was a Ganap before the war and that after his death, which occurred while he was confined in Bilibid awaiting trial as a treason indictee, said witnesses tried to heap all their animosity, hatred and feeling of revenge on him (appellant) as the son of the man they hated. It has been proven however that the affidavits of these witnesses who testified against the appellant had been made and filed long before the death of his father, so that it cannot be true that in testifying against the accused they merely wanted to send him to jail in place of his father, the object of their hatred, who was already dead. The trial court did not believe the defense of the appellant. Neither are we inclined to give it serious consideration. We quote a pertinent portion of the decision of the trial court:

"The Court had the opportunity to watch the witnesses for the prosecution, while they were testifying, and finds no reason to doubt their testimony.

"The acts of the defendant, conclusively established by the evidence presented, constitute both adherence to the enemy and overt acts of treason. The defense of alibi put up by the accused cannot be taken seriously. As between his sole, unsupported declaration, and the logical, straight-forward, and unbiased testimony of the witnesses for the prosecution, the choice is not hard to make."

In conclusion, we find the appellant guilty of the charge of treason. The Solicitor General recommends the affirmance of the decision appealed from. Finding no reversible error in it, the same is hereby affirmed with costs.

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

[1] 79 Phil., p. 138.

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