

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
POLICARPIO RUIZ, 2.o, MAXIMO AGNI, 2.o, ADRIANO VELASCO AND
FLORENTINO ROSARIO, DEFENDANTS AND APPELLANTS.***G.R. No. L-2080. April 29, 1950*

Ponente: REYES, J.

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In the afternoon of February 6, 1943, while Maximo Agni, 1.o, was with his family in his house in barrio Salpad, San Nicolas, Pangasinan, he was arrested and taken away by a group of five guerrillas, namely, Adriano Velasco, Florentino Rosario, Severino Gora, Federico Pora, and one Sapanta, accompanied by two civilians named Policarpio Ruiz, 2.o, and Maximo Agni, 2.o. Several days afterwards, human remains already in a state of decomposition and being devoured by scavenger dogs were found some distance from said barrio and identified as those of Maximo Agni, 1.o.

On the basis of the above facts, the chief of police of San Nicolas, after liberation, filed a complaint for murder in the justice of the peace court against the five guerrillas and two civilians above named, but as only four of them were apprehended, only those four were made defendants in the information for murder which the provincial fiscal filed in the Court of First Instance of Pangasinan. They are Adriano Velasco (alias Pediong), Florentino Rosario, Policarpio Ruiz, 2.o, and Maximo Agni, 2.o.

The above facts are not disputed. But the accused put up the defense that the deceased was a Japanese spy and that as such he was ordered arrested and executed by Lieut. Pioquinto, then head of a guerrilla unit operating in those parts. And for the two last named accused, who are civilians, it was further claimed that they merely accompanied the guerrillas to the house of the deceased and did not participate in his arrest and execution.

In connection with the deceased's alleged activities as a spy, the defense presented four witnesses who testified that on December 12, 1942, they saw the deceased in the company of Japanese soldiers who were then rounding up suspects; that the suspects were taken to a school building in barrio San Isidro, San Nicolas, and there the deceased pointed out to the Japanese the guerrilla soldiers named Santiago Alagano, Mateo Ramoa, Cornelia Dulay, and Eusebio Bisaya, who thereafter were never heard from. Two of those witnesses were among those arrested but later released, while the other two were the widows of the arrested guerrillas Santiago Alagano and Cornelio Dulay. The widows also declaimed that the matter was reported by them to Lieutenant Pioquinto.

The four defendants also took the stand, and their combined testimony tends to show that two of them, Adriano Velasco and Florentino Rosario, were members of the Pioquinto guerrilla unit which was operating in those parts; Florentino being a corporal; that at about 4 p.m. on February 6, 1943, they were ordered by Lt. Pioquinto to go with Severino Gora, Federico Pora, and one Zapanta and arrest the deceased Maximo Agni, 1.o; that upon reaching Salpad that same afternoon, they inquired of their co-defendant Policarpio Ruiz, 2.o where the house of Maximo Agni was and requested him to accompany them there; that thinking that they were looking for the defendant Maximo Agni, 2.o, Ruiz took them to the house of the latter; that when they tried to put Maximo Agni,

2.o, under arrest, he protested, saying that he had not pointed out any guerrillas to the Japanese and that possibly it was another Maximo Agni that they were looking for; that they then had him accompany them to the house of this other Agni, i.e., Maximo Agni, 1.o, and when they got there they arrested the latter, bound his hands, took him to the camp and there turned him over to Lieutenant Pioquinto, who, after an investigation in which he admitted having really pointed out the guerrillas to the Japanese, ordered him executed the following morning notwithstanding his plea for forgiveness.

Despite this defense, the trial court found the four defendants guilty of murder and, disregarding their plea for amnesty, sentenced them to the corresponding penalty. From this sentence the defendants have appealed.

After going over the evidence, we agree with the defense that this sentence should be revoked.

It is true that, as testified to by some of the witnesses, the defendants Policarpio Ruiz, 2.[o], and Maximo Agni, 2.[o], had a land dispute with the deceased Maximo Agni, 1.o, dating back to pre-war days. But it also appears from the testimony of a son of the deceased that some kind of a deed had already been signed by the deceased conveying the land to Policarpio Ruiz, 2.o, and in any event it does not seem probable that, for that matter alone, Policarpio Ruiz, 2.o and Maximo Agni, 2.o would plot against the deceased Maximo Agni, 1.o and have him executed by the guerrillas, it appearing that Ruiz and the deceased were cousins, while Maximo Agni, 2.o was a nephew of the deceased. Neither is it probable that the guerrillas on their part, simply because they had been furnished food by Policarpio Ruiz, 2.o and Maximo Agni, 2.o, would make common cause with them in their quarrel with the deceased and kill the latter as a spy if, in fact, he was not. as.

The truth, as we see it, must have been, as related by the witnesses for the defense, that the deceased was ordered executed by Lieutenant Pioquinto because of complaints received by the latter regarding his activities as a spy.

There is nothing to the suggestion of the prosecution that the Pioquinto guerrilla unit was not a recognized unit. To be entitled to the benefits of the Amnesty Proclamation, guerrillas who have committed acts violative of the Revised Penal Code did not have to belong to any recognized unit, and, indeed, it matters not whether the perpetrators were guerrillas or civilians, for the proclamation is applicable to all persons who have committed a crime against persons who were aiding in the war efforts of the enemy. It is true that Lieutenant Pioquinto was not presented as a witness in this case, but that fact alone raises no presumption against the defense, for there is testimony that the lieutenant was killed by the Japanese.

In view of the foregoing, the judgment appealed from is revoked, and, declaring appellants entitled to the benefits of the Amnesty Proclamation, the Court hereby orders the information filed in this case dismissed and the defendants Policarpio Ruiz, 2.o Maximo Agni, 2.o, Adriano Velasco alias Pediong, and Florentino Rosario set at liberty, with costs de oficio.

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

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