

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE VS. MARCIANO DE LOS REYES, DEFENDANT-APPELLANT.

G.R. No. L-4356. May 19, 1952

Ponente: BENGZON, J.

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BENGZON, J.:

The Court of First Instance of Zamboanga found this defendant - a Filipino - guilty of treason for having taken part in the apprehension and massacre of some guerrilla operatives during the Japanese occupation.

Two eye-witnesses testified at the trial: Victorio Aquino and Eduardo Royales. Two others furnished supplementary or corroborative evidence. From their testimony, the following statement of pertinent facts may be made:

In the morning of Dec. 9, 1942 some ex-USAFFE guerrillas operating in Zamboanga City started on a patrol to Barrio Putig of said city, by order of Lieut. Enrique Garcia. They were Victorio Aquino, Eduardo Royales, Jose Royales, Hermenegildo Mendoza and Ambrosio Parado, all under the leadership of Sergeant Epifanio Nillas. When they reached a place near the barrio schoolhouse they met Lt. Roman Miguel of the Tetuan Volunteer Guards accompanied by twelve of his men, all armed, including the defendant Marciano de los Reyes and Bruno Soriano.

Knowing Miguel and Soriano as former USAFFE officers, Nillas informed his subordinates about it, and so, after saluting, the guerrillas stepped backward in formation. Whereupon Bruno Soriano quickly drew his gun and fired first at Nillas, (who ran away), and then at Victorio Aquino hitting the latter's rifle. At that moment Marciano de los Reyes and a companion suddenly hugged Aquino, snatched his gun and forcibly tied him, even as Roman Miguel and the other Guards held his comrades at bay with guns pointed at them. Presently these were disarmed, bound with ropes and brot to Sitio Caputatan upon orders of Lieutenant Miguel, who thusly addressed his surprised captives: "since we have apprehended and tied you, we want to let you know that we are Tetuan Volunteer Guards under the Japanese" and "since you are guerrillas under the supervision of the American forces you are bandits and should be killed."

At Caputatan, Bruno Soriano, who seemed to be the ranking Guard ordered the prisoners to line up. Then Lt. Miguel commanded that Islao Visaya (a civilian prisoner brot along with the guerrillas) be killed first. Marciano de los Reyes, with a bolo, executed the command, bringing Islao Visaya behind some bushes nearby. Then upon Miguel's orders Soriano marched Victorio Aquino to the bushes and shot him from behind, wounding him in the right ear. Aquino fell and was unconscious for some time. Believing he was dead, Soriano left him there. (But Aquino slipped away later and reported to headquarters.)

After the shooting by Soriano, it became defendants turn. Without waiting for orders he led Ambrosio Parado to the bushes and liquidated the latter. Then Bruno Soriano conducted Hermenegildo Mendoza to the same bushes and shot him.

Again Soriano fetching Eduardo Eoyales directed him to walk ahead. Realizing his danger and maybe in a desperate attempt to save himself, Eduardo Royales asked Soriano to shoot him face to face, which Soriano did, hitting Eduardo in the left ear. Feigning death Eduardo slumped to the ground and lay still.

Thereafter defendant and Bruno Soriano took Jose Royales to where his brother Eduardo Royales lay, and there Soriano shot Jose, defendant administering the finishing blow with a bolo cut in the neck. Eduardo who was just playing possum saw the slaying of Jose. Cautiously he strove to ease out of his bonds but was unluckily observed by defendant, who exclaimed "So you are still alive" and slashed him in the neck, adding afterwards, "Now you are finished. You are all soldiers under the Americans."

However Eduardo Royales miraculously survived and together with Victorio Aquino related the gruesome story in the trial of appellant Marciano de los Reyes.

What about Lt. Miguel and Bruno Soriano? The first perished in an encounter with the guerrillas in February 1943. The second was arrested after liberation; but was subsequently slain during a jailbreak attempt.

The defendant presented two residents of Zamboanga who said that the Tetuan Volunteer Guards were organized solely to preserve peace and order in Tetuan - suburb of Zamboanga - and that it was not sponsored or controlled by the Japanese Military authorities. Evidently these were not well-informed of all the activities of the organization. Or more probably they spoke of the original or avowed purposes, being unaware of its secret or posterior aims. One indication that the group cooperated with the Japanese is the incident, disclosed by the record, that the latter utilized the services of Lt. Miguel and his men, to contact the guerrillas (Captain Fernandez) to invite them to discontinue their resistance operations, or to effectuate their voluntary surrender.

Admitting the slaughter at Caputatan, the defendant gave a different version. According to him when the captives stood in line as directed by Soriano, the latter mowed them down with his automatic rifle; all the prisoners dropped to the ground, but when Soriano noticed that one (Eduardo Royales) was alive, he ordered defendant to finish Eduardo; whereupon obeying the order, he (defendant) gave Eduardo a slight blow with his bolo intending to save him. Again, defendant alleged that he was never a member of the Tetuan Volunteer Guards; that he was that day apprehended by Bruno Soriano from the farm and compelled to join the party.

One brief observation will be enough to discredit this exculpatory account. If it were true that he spared the life of Eduardo Royales, the latter would not have accused him falsely as a traitor, as the killer of his brother Jose, and for having callously attempted to hack him to death.

Another proof of defendant's lack of veracity. He swore that when arrested in 1945 he was seventeen years old. But the church records show he was baptized in May 1923, which means, in 1945 he was already of age.

The version of the prosecution was properly sustained. Although each and every killing was not seen by two witnesses, the apprehension of the guerrillas, because they were guerrillas was beheld by two persons: Aquino and Royales. That is sufficient to justify conviction for treason.

The punishment imposed by the lower court - reclusion perpetua and P10,000 fine - is in accordance with law. The indemnity to the heirs of Jose Royales (P2000) should be approved. Compensation to the heirs of the other casualties has not been recommended, probably because the prosecution is not very sure about the proof of death: were not seen afterwards by the witnesses.

Judgment affirmed, with costs against appellant.

Paras, Feria, Pablo, tuason Montemayor, and Labrador, JJ., concur.

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