

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. CANDIDO INGALIA, DEFENDANT AND APPELLANT.

G.R. No. L-1974. March 30, 1949

Ponente: REYES, J.

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REYES, J.:

The accused, a Filipino citizen, was charged with treason on thirteen counts, but evidence was presented only on four counts (Nos. 1, 9, 10, and 12) wherein it is alleged that during the Japanese occupation he gave aid and comfort to the enemy by leading raiding parties of Japanese soldiers against the guerrilla forces, helping them obtain information about guerrilla suspects, and participating in the torture and killing of those engaged in the resistance movement.

The People's Court found that the accused had taken part in the torture of three guerrilla suspects named Merito Lim, Emilio Gallos, and Edison Garganera, and in the execution of the last two, and, declaring him guilty of what it called "the complex crime of treason and murders," sentenced him to death, to indemnify the heirs of Emilio Gallos in the sum of P2,000 and those of Edison Garganera in the same amount, to suffer the accessory penalties prescribed by law, and to pay a fine of P20,000 and the costs.

Because of the nature of the main penalty imposed, this Court is called upon to review the sentence.

There is no question as to the findings of fact of the trial court, the same being accepted by defense counsel and supported by the testimony of witnesses whose credibility has not been put in doubt. Defendant's declaration that he had no knowledge of the alleged tortures and executions or that he had no participation therein is too weak to overcome the overwhelming proof against him.

But while both the defense and the Solicitor General recommend affirmance of the sentence, we find that this we cannot do. As already held by this Court in similar cases, the tortures and murders ascribed to defendant constitute, together with his other acts, the very elements of the crime of treason with which he is charged, and should, therefore, be considered as merged in that offense, with the result that the accused should only be declared guilty of treason and not of "treason with murders." (People vs. Labra, 81 Phil., 377; People vs. Prieto, 80 Phil., 138; People vs. Racaza, 82 Phil., 623; People vs. Roble, 83 Phil., 1.)

In determining the penalty to be imposed upon the accused, this Court can not but take notice of the vindictive cruelty exhibited by him in torturing and executing his victims. As the Solicitor General rightly observes in his brief, the savagery which characterized the inhuman punishment inflicted by the accused on those suspected of being in the resistance movement was beyond even that required for the accomplishment of his traitorous acts. It appears that one of those suspects, Merito Lim, was, in the dead of night, snatched from his bed by the accused, who, after denouncing him as a sergeant of the guerrillas, proceeded to strike him with his fists until he fell. The accused then repeatedly kicked him and, ignoring his plea for mercy, dragged him out of the house, tied his hands and neck and led him away, escorted by Japanese soldiers. The next morning Lim's corpse, with hands still tied, was found hanging down on the stiff side of a gully near the place where the Japanese usually executed their

victims. Another suspect was Emilio Gallos, a member of the guerrilla forces. This man at first received fists blows from the accused, and when he fell he was kicked and trampled upon by him until blood oozed out of his mouth and nose. Not content with this, the accused tied up Gallos' hands and neck with a rope, led him to the dock by the river where he made him kneel down and then lopped off his head with a Japanese saber. The third suspect tortured was Edison Garganera. The accused stripped this man of his clothes and then applied a lighted piece of paper to his private parts. Afterwards the accused wrapped him in a sack, tied a rope around his neck, dragged him to the river dock and stabbed him four times with a bayonet. These atrocities, which have been clearly proven, make it imperative for us to appreciate against the accused the aggravating circumstance of unnecessary cruelty, and since this circumstance is not offset by any mitigating circumstance, the penalty of reclusion temporal to death, which is prescribed for the crime of treason, should be applied in the maximum. However, as five members of this Court are not for applying the extreme penalty in this case, the accused could only be sentenced to reclusion perpetua in addition to the other penalties imposed by the lower court.

Wherefore, the decision is modified and the accused declared guilty of the crime of treason and sentenced to suffer reclusion perpetua, to indemnify the heirs of Emilio Gallos in the sum of P2,000 and those of Edison Garganera in the same amount, to suffer the accessory penalties prescribed by law, and to pay a fine of P20,000 and the costs in the lower court.

Moran, C.J., Paras, Feria, Pablo, Perfecto, Bengzon, Briones, Tuason, and Montemayor, JJ., concur.

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