

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. JOAQUIN FLAVIER, DEFENDANT AND APPELLANT.

G. R. No. 2998. May 23, 1951

Ponente: PARAS, C.J.

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PARAS, C.J.:

This is an appeal taken by the defendant, Joaquin Flavier, from a judgment of the Court of First Instance of Quezon, finding him guilty of treason and sentencing him to life imprisonment, with legal accessories, and to pay a fine of 15000. The information contained ten counts, but the appellant was found guilty of only counts 1, 2, 7, 8 and 10).

Count No. 1 accuses the appellant of having given aid to the Japanese Initial Forces by serving as an officer to the United Training Organisation, established to counteract the guerrilla movement and the American liberation forces in Lofez, Tayabas. Under Count No. 2, the appellant is charged with having killed three guerrillas known as Monosea, Talavera and Ramos, in Lopez, Tayabas. Count 7 alleges that the appellant arrested Florentino Salumbides in his house in Lopez, Tayabas, on suspicion of being a guerrilla spy, the said Florentino Salumbides having been taken to the Japanese garrison and detained therein for a period of twenty-two days. Count 8 refers to the apprehension by the appellant of Gerudio Villanesa in his house in Lopez, Tayabas, on suspicion of being a guerrilla, and his torture by the appellant in the Japanese garrison. Count 10 alleges that the appellant arrested Aniceto Iglesia on suspicion of being a guerrilla in barrio Dalangan, Lopez, Tayabas, he having been brought to the Japanese garrison.

Counsel for appellant argues that appellant's citizenship was not duly proven and that none of the overt acts charged against him and of which he was convicted by the trial court is supported by the evidence. Appellant's Filipino citizenship is, however, satisfactorily shown by the official record in the Bureau of Prisons, Exhibit "A", which was admitted in evidence without appellant's objection and by the testimony of witnesses who have known the appellant to have been born in the Philippines of Filipino parents. Appellant's pretense that he did not know whether his parents were Filipinos, is absurd, if not unbelievable, he being a high school graduate and having been a high school teacher and a candidate for municipal vice-president and senator. The case of Jose Tan Chiong vs. Secretary of Labor, G. R. No. 47616, invoked by the appellant in support of his contention that mere birth in the Philippines is not sufficient to confer Filipino citizenship, is not applicable, for the reason that said case involved an alien born of an alien father and a Filipino mother.

We agree with counsel for the appellant that count No. 1 was not duly proven. But, we are convinced that appellant's conviction on the other counts is well founded. The evidence for the prosecution, with reference to count 2, is to the effect that in an encounter between a number of guerrillas and the enemy forces in the town of Lopez, three guerrilla members, namely, Manosea, Talavera and Ramos, were killed. Florentino Salumbides, Epifanio Ardiente, Felipe Cargan, Francisco Caldecara and Lorenzo Ambas, testified about the encounter, in which the appellant fought on the side of the enemy. It is true that there is no direct proof that the appellant actually killed the three guerrillas, but said fact does not exculpate him from criminal liability resulting from his

participation on the enemy's side.

With reference to the arrest of Florentino Salumbides as charged in count No. 7, two prosecution witnesses, Florentino Salumbides himself and his brother Dominador Salumbides, testified. The appellant claims that it was Lamberto San Juan who actually arrested Florentino Salumbides, as shown in the transcript. As the two Salumbides brothers have known the appellant since boyhood, it is unlikely that they could have mistaken the appellant for another; and the appearance of the name of San Juan in the transcript must have been an obvious clerical error, especially in view of the alleged denial of San Juan that he ordered the arrest and subsequent release of Florentino Salumbides.

The arrest of Gerundio Villanisa by the appellant is confirmed by Gerundio Villanisa himself and Santiago Surbano. Appellant's defense against this count No. 8 is that while he was present at the time of the arrest, it was Lamberto San Juan who actually made the arrest. Appellant's allegation is not again sufficient to exculpate him from criminal liability, as he acted knowingly in conjunction with Lamberto San Juan. Neither is there merit in appellant's pretense that Villanisa was arrested because of a crime, and not because of his guerrilla activities, since the crime imputed to Villanisa consisted in the hold-up of the two Japanese trucks.

The arrest and subsequent torture of Aniceto Iglesia by order of the appellant, as charged in count 10, is testified to by Aniceto Iglesia himself and David Villapane. There is no point in appellant's contention that, according to David Villapane himself, the latter was arrested by the "companions of Profirio Jimenez" and not by the appellant, because the appellant was a companion of Profirio Jimenez and the overt act charged in count 10 is the arrest and torture of Aniceto Iglesia, not of David Villapane. Aniceto Iglesia and David Villapane both testified that the appellant was present when Aniceto was arrested and it was the appellant who ordered their captives to be hog-tied and tortured in the garrison.

The appealed judgment being in accordance with the facts and the law, the same is hereby affirmed with costs. So ordered.

Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor and Jugo, JJ., concur.

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