

4 Phil. 427

[G.R. No. 1486. April 18, 1905]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. FLORENCIO RACINES ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

MAPA, J.:

With the exception of Toribio Racero, Man Latiran, Marcelo Laves, and Rufino Valenzuelo, who were acquitted, all the other defendants in this case are appellants. The judgment appealed from declares them guilty of insurrection and sentences them to the penalty of ten years' imprisonment in accordance with section 3 of Act No. 292, which defines and punishes said crime.

It is a fact fully proven at the trial that on the first days of the month of April of the year 1903, and under the command of one Flores Echevarria, a great number of individuals gathered at the place called Manila, jurisdiction and town of Agusan, Province of Cagayan de Misamis, with the object of rebelling against the Government, their plan being to attack and take possession by means of force of said town of Agusan, and of the principal town of the province, which they did not accomplish because they were surprised on the morning of April 11 at their headquarters in Manila by some of the Constabulary forces, which succeeded in dispersing them after an engagement in which some were killed and wounded and during which some of the defendants in this case were captured.

We consider also as proven that the defendants Agustin Abiniaio, Dimas Ebuesa, Cornelio Sea, Jose Abales, Pedro Labonos, Gaudencio Ebuesa, Catalino Jablan, Simplicio Jablan, Margarito Quina, Aquilino

Opog, Antonio Bacongus, Narciso Saldua, Cleto Dacutanan, Miguel Asinero, Bartolome Paca, Inocentes Pagutayao, Dionisio Eduria, Pedro Bacol, and Anastasio Bacallan formed part of this band of insurgents. All these defendants, with several more, up to the number of over two hundred according to the testimony of the witnesses for the prosecution, were gathered in the town of Manila preparing to attack the forces of the Government for two or three days previous to the 11th of April, and almost all of them took part in the encounter on said date, six of them having "been captured during the fight.

The judgment appealed from is in conformity with the facts of the case and must, therefore, be affirmed as regards these individuals. In addition to the sentence imposed on them in the judgment, each one of the defendants shall be sentenced to a fine of P500, Philippine currency, for the reason that section 3 of Act No. 292 punishes the crime of insurrection with the joint penalty of imprisonment and fine, which shall not exceed ten years' imprisonment and P10,000, respectively.

As regards the other defendants, their guilt does not appear sufficiently proven in the case. There is absolutely no proof which convicts the defendant Sintino Balanbang. No witness speaks of him. His name does not even appear in the declarations for the prosecution in the case. As against Florencio Racines, Felipe Bacongus, and Vidal Racero, there is only hearsay evidence and suspicions based on their more or less frequent intercourse with individuals who were in prison for the crime of insurrection, or who were detained as insurgents in the Province of Cagayan de Misamis. There is no witness who testifies of his own personal knowledge that these individuals promoted, aided, or abetted any insurrection, or that they took part or acquiesced in it in any manner, as is necessary and indispensable in order to convict them of the crime with which they are charged. The fact of some ammunition being found in the possession of Florencio Racines and Felipe Bacongus, although this fact was not satisfactorily explained by them on the trial, does not prove, in itself, that they had committed the crime of insurrection and rebellion.

The same thing must be said as to Victor Carpio, against whom there is only the testimony of one witness, who declares of his own personal knowledge only that said defendant had an interview with one Flores Echevarria in Manila on the night of Holy Thursday in the year 1903. The motive, object, and ends of said interview not having been shown, we can not in any way consider such fact as sufficient proof of the guilt of that defendant.

Dionisio Bacongus is a child 14 years of age, and there exists no data in the case to convince us of his capacity or discretion to take part in an armed rebellion.

As regards Gerardo Labnutin, there is the testimony of only one witness, who affirms to have seen him once in Manila. The defendant Bartolome Binayhao is also in the same condition. The peculiar, isolated testimony which there is against each one of these defendants does not appear corroborated by any other data in the case, and as each one of the defendants declared in his own behalf and denied, strenuously, having been at Manila, for this reason we do not believe that the proof of their guilt is conclusive and we feel that they also are entitled to be acquitted.

By virtue of what we have stated above, we reverse the judgment appealed from as regards the defendants Florencio Racines, Vidal Racero, Victor Carpio, Felipe Bacongus, Gerardo Labnutin, Dionisio Bacongus, Bartolome Binayhao, and Sintino Balanbang, whom we freely acquit, with the costs corresponding to them in this instance *de officio*. We affirm the judgment as regards the other appellants, on whom we in addition impose a fine of P500, Philippine currency, each, and the costs in this instance *pro rata*. So ordered.

Arellano, C. J., Torres, Johnson, and Carson, JJ., concur.
