

[G.R. No. 1237. September 30, 1903]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. LEONARDO
GUINACARAN ET AL., DEFENDANTS AND APPELLANTS.**

D E C I S I O N

TORRES, J.:

On January 30, 1903, the provincial fiscal of Tayabas Province filed a complaint in the Court of First Instance charging the defendants Avith having, under the guise of insurgents, committed the crime of brigandage.

The defendants were Leonardo Guinacaran, a so-called colonel of the organization; Juan Par, Gregorio Palmero, and Bonifacio Andalis, denominated majors; Lucio Santamina, Catalino Verdan, Roque Principe, Estanislao Padines, Eufemio Principe, Julio Benito, Egmidio Sarmiento, Abdon Andalis, and Dionisio Andalis, captains; Sergio Andalis, Vicente Parafina, Candido Machete, Pedro Garin, and Carlos Principe, first lieutenants; Sinforoso Principe, Oornelio Uurlanda, Crisanto Sol, Nicolas Principe, and Carlos Principe, second lieutenants of the organization, and Pablo Par and Patricio Verdan, sergeants. The organization was known as "The Liberating Army of the Philippines." The complaint also included one Feliciano Andalis. The defendants were charged with having committed the crime of brigandage in the following manner:

Late on the night of December 27, 1902, they entered the house of Pantaloon Losing, situated in the barrio of Calutan, town of Unisan, Tayabas Province, in the Seventh Judicial District, and stole therefrom money and such other personal property as they thought they could make use of, consisting of a boiler of the value of \$3.50, five gantas of rice worth \$2.50, twelve plates worth \$3.60, four suits of clothes worth \$24, a pair of shoes valued at \$2.50, a hat worth \$5, two undershirts' worth \$1.50, two pairs of drawers valued at \$1.50, nine shirts valued at \$35, a ship's lamp of the value of \$50, eight chemises worth \$28, three aprons worth \$7.70, a pair of earrings worth \$10, a comb set with pearls valued at \$7, a

stick pin set with pearls valued at \$6, a gold ring set with pearls worth \$6, and certain documents of credit, the total value of the property stolen being equivalent to \$180, Mexican currency.

Not content with having committed this theft, they kidnaped the owner of the house, Pantaleon Losing, and his wife, Cirila Ubal. They bound Pantaleon and carried him and his wife to the place called Puting Lupa, where they had what was called "The encampment of the Liberating Army of the Philippines." The prisoners were there each tied to a tree, and Pantaleon Losing, after having been beaten with a club, was taken before the so-called "lieutenant-commander of the army," one Esteban Deseo, who, after holding a council of Avar, condemned both the prisoners to the penalty of death; all this in violation of the provisions of section 1 of Act No. 518.

The information also included Lucas Pureza, Martin Principe, Cornelio Tjrlanda, Nicolas Principe, Pablo Par, Maria Aguilar, Apolonia Alba, Prisca Principe, Teofila Aguilar, Vicenta Aguilar, Primitiva Aguilar, Policarpia Mulata, Benita Causapin, Eufina Principe, Fausta Uri, and Filomena Estrada, upon the charge that before, during, and after the commission of the crime prosecuted herein they gave aid and comfort to the band of brigands of which the accused above named constituted a part, by furnishing them and other members of the band with information concerning the movements of the police, receiving stolen property from them, providing them with food, clothes, and ammunition, and otherwise aiding and abetting them, in violation of section 4 of Act No. 518.

The trial having been commenced, the complaining witness, Pantaleon Losing, was examined. He testified that he knew all the accused, some of them being residents of his barrio, and others living in barrios near by; that late on the night of December 27, 1902, while asleep with his wife and other persons in his house in the barrio of Calutan, he was aroused by the presence therein of Juan Par, Juan Magnay, and Candido Machete, who were looking for the witness and his wife, Cirila; that Par and Machete seized and bound the witness, while Magnay did the same to Manuel Alba, who, with the brothers Julio and Brigido Benito, composed the three other persons mentioned who were passing the night there; that the four were then taken out of the house and that after leaving it Hilario Pureza struck the witness a blow on the right arm with a club; that Pureza ordered that the witness's wife, Cirila, be brought out of the house, and that the prisoners were then conducted to the so-called encampment of the malefactors, situated at Puting Lupa or Mabugabuga; that they arrived at this place at about 10 o'clock the following morning and were there held in confinement, the witness with his feet in stocks; that upon being brought

before the second in command of the organization, Esteban Deseo, the latter condemned them to death for having, as he said, informed the Constabulary of the departure of the chief of the band, Felipe Verastegni, for the Island of Marinduque, on which occasion Verastegui was surprised and killed by Inspector Julio Herrera and his soldiers; that the witness begged Deseo and the other chief officers, Gabriel Banal and Hilario Pureza, to delay the execution of this sentence in order that he might prepare himself for death, which request was granted; that on the day following, which was the (ith of January, the day devoted to the celebration of the festival of the Three Kings and on which he was to be put to death, the encampment was attacked by the Constabulary and volunteers and that the malefactors thereupon fled, but that owing to the distance of the place of confinement of the witness from the encampment the Constabulary failed to discover him at that time; and that as he was unable to free himself from the stocks he remained imprisoned until the following Sunday, when the Constabulary returned to the place and found him; that on the night of the assault the malefactors stole from his house clothing, a sail, and other goods, including jewelry and documents of credit, to the value of 180 Mexican pesos; that while at the encampment he recognized among other persons there Leonardo Guinacaran, Egmidio Sarmiento, Bonifacio Andalis, Abdon Andalis, Sergio Andalis, Pablo Par, Pedro Garin, Juan Par, Eufemio Principe, Nicolas Principe, Carlos Principe, Roque Principe, Sinforoso Principe, Carlos Principe, jr., Candido Machete, Jacinto Sol, Lucas Pureza, Martin Principe, Catalino Verdán, Patricio Verdán, Lucio Santamina, Dionisio Andalis, Gregorio Palmero, Estandislo Pardines, and Cornelio Orlanda, and others whom he could not remember; that the men who stayed in this encampment lived on food which was stolen from day to day in the neighboring barrios, and that they were armed with rifles, shotguns, revolvers, lances, large bolos, and daggers.

Cirila Ubal, wife of the complaining witness, and Manuel Alba, Brigido Benito, and Julio Benito corroborated the testimony of Pantaleon Losing, the woman, Cirila, adding that as she and her husband were led off by some of the malefactors a number of their companions entered the house to search it; that while she and her husband were held as prisoners they were court-martialed on a charge of having given information to the Constabulary of the whereabouts of Felipe Verastegui, a so-called general, who was surprised and killed by the Constabulary, and that on this account the generals, Esteban Deseo, Gabriel Banal, and Hilario Pureza, accompanied by Egmidio Sarmiento, notified them on the 5th day of January that they must prepare for death, as she and her husband were to be shot on the following day, the 6th; that at noon on the day designated for their execution the encampment was surprised by the Constabulary and volunteers, and that the malefactors having fled she was

rescued by Lieutenant Herrera and taken to the town. Manuel Alba further stated that he succeeded in escaping on the night of the assault, owing to the darkness and confusion and hid in the neighboring forest; that early on the morning of the day following he presented himself before the municipal authorities for the purpose of reporting all that had taken place; that he believed those who assaulted Losing's house were engaged in robbery and stole from the townspeople, as he had heard a number of people complaining of being robbed by brigands who formed a part of this band. Julio Benito stated that he had recognized many of the defendants among those who committed the robbery in the house of Pantaleon Losing, and that this was the only band in existence near that place; that the malefactors who formed the band commanded by Esteban Deseo and Hilario Pureza were the same ones who, on August 30 of that year, entered the town of Unisan, burned official documents and robbed a number of houses. Brigido Benito testified that, when the same malefactors departed from the scene of the occurrence taking with them the complaining witness and Manuel Alba, they also obliged him to accompany them, and that although he did not go to the encampment of the malefactors he believes they were all members of the same band. Anacleto Amparo, Losing's servant, corroborated the testimony of these witnesses. She testified that, after her master and mistress were led away, several of the malefactors entered the house, compelled her to lie down and then commenced to search the house, and that they carried off a number of articles which they had found.

Julio Herrera, lieutenant of the Constabulary forces, testifies that on January 6, 1903, he surprised the encampment of the malefactors at a place called Puting Lupa or Mabugabuga, and after a short resistance on the part of the bandits, who were commanded by Hilario Pureza, among others, they fled; that the witness and his subordinates succeeded in capturing arms, clothing, documents, and other goods, as well as Estansiao Pardines and a number of women, and at the same time rescued Cirila Ubal; that he burned some twenty houses in which he found uniforms of the thieves, by some of whom several shots were fired from the neighboring forest; that on the day following he continued his search through the woods, and, notwithstanding some resistance, succeeded in capturing four of the robbers, named Leonardo Guinacaran, Juan Par, Lucas Pureza, and Martin Principe, and also some women and children; that according to the documents seized by him, the gang was organized with political purposes inimical to the constituted government, and that these malefactors called themselves enemies of all employees and officers of the Government, the organization being styled "The National Liberating Army of the Philippines." According to the witness's information the principal officer was one Reus. He stated he understood that, for the purpose of concealing its real object, the organization had been established under

the guise of a religious association; that, although their motto was "Independence," their acts showed that their real object was brigandage and that they had given their organization political appearance merely as a ruse to conceal the fact that they were a band of brigands living upon food stolen by them in the neighboring towns; that he had captured a number of the defendants and a number of women, and the witness gave the names of many other persons who had not been apprehended. The witness further stated that a number of these persons had taken part in the assault upon the town of Unisan on August 30, 1902, in the course of which they maltreated the municipal authorities, burned official documents, and robbed a number of houses, the band having at that time been commanded by Felipe Verastegui, who was subsequently killed; that the same band, in the following September, assaulted and robbed the town of Laguimanoc; that the documents and commissions which were captured at the time of the surprise showed that the defendants, and other persons not arrested, formed a part of the band; that in the encampment they found certain goods which were identified by the complaining witness and his wife, and that some of the malefactors had already surrendered on account of the vigorous campaign conducted against them.

Guillermo Claveria, Juan Vera, Gregorio Vera Cruz, Ambrosio Alerano, Juan Brillon, and Aguedo Cataqui, residents of the town of Unisan; Aloises Urales, a member of the municipal police; Benito Isaac, a volunteer, and Subinspector Herrera stated that the defendants were members of the band which assaulted a number of houses in the town of Unisan on August 30, 1902, burned a lot of the official documents in the municipal and justice's court, and robbed and illtreated the inhabitants; that the same gang, on the 3d of September following, assaulted a number of houses in Laguimanoc and stole property belonging to the inhabitants; that on the 27th of December of the same year malefactors to the number of some forty or more, and belonging to the same band, entered and robbed the house of Pantaleon Losing, carried him and his wife away to the encampment of the robbers and there held them as prisoners. These witnesses stated that the robbers lived upon property stolen by them in the neighboring barrios. The witness Isaac further testified that on August 30 the malefactors compelled him to open the municipal safe, of which he had possession as treasurer, but that they found no money in the safe, as his wife had taken the precaution to hide the money that had been in it. The witness Brillon testified that when attempting to escape from the malefactors on August 30, in the town of Unisan, he received a gunshot wound which took twenty-five days to heal.

The prosecuting attorney asked the court to dismiss the complaint against the defendants Oornelio Urandia and Pablo Par, 12 and 14 years of age, respectively, and Martin Principe and Lucas Pureza, respectively 66 and 73 years of age, so that they might be called as

witnesses for the prosecution. This request was granted, and upon being examined the four persons mentioned testified that their codefendants and other persons not under arrest lived at a place called Mabugabuga, known as "The Encampment;" that they were all armed and that they lived on what they succeeded in stealing from the neighboring barrios; that the leaders of the band were Esteban Deseo, Gabriel Banal, and Hilario Pureza, and that the wives and other relatives of the malefactors were accustomed to pass the day praying and counting their beads. These witnesses also testified to having seen Pantaleon Losing and his wife among the women who lived in the encampment.

The prosecuting attorney then moved the court to admit this testimony as evidence for the prosecution, as well as certain documents taken from the defendants, consisting of sundry commissions and personal cedula. The witnesses were called upon to state whether they objected to the admission of their testimony and the documents referred to as evidence in the case; they made no objection thereto, saying that their statements had been made freely and voluntarily. The attorney for the defense having also failed to object to the introduction of this evidence, it was admitted by the court.

The defendants plead not guilty. Although they admitted that they were all members of the party commanded by Generals Banal, Deseo, and Pureza, at a place called Mabugabuga, where the encampment occupied by them as insurgents was located, they denied having robbed and kidnaped Pantaleon Losing and his wife and alleged that they did not take part in the assault upon Losing's house on December 27, 1902. Candido Machete, on the other hand, testified that his companions did commit the robbery in the house of Pantaleon Losing, although he insisted that he himself took no part in the assault.

The judge below, on February 5, 1903, entered judgment, imposing upon the defendants Leonardo Guinacaran, Juan Par, Bonifacio Andalis, and Egmidio Sarmiento the penalty of life imprisonment (prision perpetua) ; upon Gregorio Palmero, Catalino Verdan, Roque Principe, Estanislao Pardines, Abdon Andalis, Dionisio Andalis, Eufemio Principe, and Lucio Santamina the penalty of twenty-five years' imprisonment; upon Sergio Andalis, Vicente Parafina, Pedro Garm, Carlos Principe, Jr., Carlos Principe, sr., Sinforsoso Principe, and Candido Machete the penalty of twenty years' imprisonment; and upon each one of the defendants the payment of one-thirty-ninth part of the costs of the prosecution, With subsidiary imprisonment in case of insolvency. The judgment acquitted the defendants Patricio Verdan, Feliciano Andalis, Jacinto Sol, Nicolas Principe, Maria Aguilar, Apolonia Alba, Prisca Principe, Teoila Aguilar, Vicenta Aguilar, Primitiva Aguilar, Policarpia Mulata, Benita Causapin, Bufina Principe, Fausta Uri, Maria Uri, and Filomena Estrada, and

remitted the costs corresponding to them. Against this judgment the nineteen defendants who were convicted entered an appeal. The case having been brought before us on this appeal, the counsel for the defendants asked that the judgment be modified and the penalty reduced to twenty years' imprisonment for each defendant, for the reasons stated in his brief. The Solicitor-General in his brief urges that the judgment be affirmed without modification, with the costs of this second instance to the defendants.

Act No. 518, enacted and published on the 12th of November, 1902, by the Civil Commission of these Islands, provides, in paragraph 1, that all persons who conspire together and form a band for the purpose of committing robbery by means of force and violence, and who with this object shall go out upon the highway or roam over the country armed with deadly weapons, and every person thereafter joining such band shall be deemed highway robbers or brigands, and upon conviction thereof shall be punished by death or imprisonment for not less than twenty years, in the discretion of the court.

The facts established by the evidence in this case show that the eighteen appellants, together with Dionisio Andalis, who died in the public prison of this city April 15, 1903, and other persons still at large formed part of a large band of malefactors operating under the guise of a politico-military organization; that the sole purpose of the band was robbery and kindred crimes; that its members lived in the interior of the forest and preyed on the peaceful inhabitants of the towns near Mabugabuga or Puting Lupa, who were the victims of their depredations long before Act No. 518 was passed, and that these malefactors habitually followed the life of brigands. Late on the night of December 27, 1902, they assaulted the house of Pantaleon Losing, in the barrio of Unisan, and robbed him of jewelry, clothing, and other articles of the total value of ISO pesos, Mexican currency, and that, after having beaten the complaining witness and his wife, they kidnaped both and illegally detained them at Mabugabuga, where they were held for eleven days under sentence of death by shooting, which was to have been carried out on the evening of the day on which the encampment was surprised and the prisoners released.

Section 2 of the act cited provides that, for the purpose of proving the crime of brigandage, it is not necessary to adduce evidence that any member of the band has in fact committed robbery or theft, but that the fact that the defendant was a member of such an armed party shall be sufficient to justify conviction.

It is fully proven in the record that the appellants and other persons were members of a band organized ostensibly for political purposes, but whose real object was brigandage. This

fact is established by the testimony of the defendants, and, although the assault on the town of Unisan on August 30, 1902, by the armed band of which these defendants were members, during which official documents were burned and a number of inhabitants of the town robbed, and the robbery of a number of the residents of the town of Laguimanoc on September 3 following, occurred before the passage of the brigandage act of November 12, 1902, the assault on the night of December 27, 1902, upon the house of Pantaleon Losing, when he was robbed and kidnaped as above stated, took place after the enactment of that law. Furthermore, the robbery herein prosecuted is not only proven by the evidence of several witnesses who testified as to Losing's previous possession of the property stolen and who were present at the time of the assault but also by the fact that some of the stolen articles were recovered by the Constabulary officers and were subsequently identified by the owner.

The offense was committed by a numerous band of armed malefactors who, availing themselves of the darkness of night, entered an inhabited house, committed the crime of robbery and then kidnaped two of the inmates. It follows that the crime has been committed by brigands, members of a band expressly organized for the purposes of brigandage, and under such circumstances as to indicate a high degree of criminality on the part of the defendants, there having been present no mitigating circumstances. For this reason, and for the reasons given by the judge of the court below, we are of the opinion that the judgment appealed should be affirmed. As to the defendants who were acquitted since no appeal was taken against the judgment of the court below with respect to these defendants, the judgment is final as far as they are concerned; and as to the deceased, Dionisio Andalis, the case must be dismissed.

For the reasons above set forth, we are of the opinion that with respect to the other eighteen defendants the judgment appealed should be affirmed. One-nineteenth part of the costs of this instance will be borne by each of the appellants, but in case of insolvency no subsidiary imprisonment will be imposed. The case will be dismissed as to the deceased, Dionisio Andalis, with the remaining one-nineteenth part of the costs of this instance *de officio*.

The case will be remanded to the court below, accompanied by a copy of this decision, for execution of judgment. So ordered.

Arellano, C. J., Cooper, Willard, Mapa, and McDonough, JJ., concur.

Date created: April 15, 2014