"improvements" are not "land."

Upon examination of the whole Land Registration Act we are satisfied that "land" as used in section 99 includes buildings. For one thing the same section uses "real estate" as synonymous with land. And buildings are "real estate" (See. 334, Civil Code, Art. 415, New Civil Code, Republica de Filipinas v. Ceniza, L-4169, Dec. 17, 1951).[2] For another, although entitled "*Land* Registration," the Act (496) permits the registration of interests therein, improvements, and buildings. Of course the building may not be registered separately and independently from the parcel on which it is constructed, as aptly observed by Chief Justice Arellano in 1909.[3] But "buildings" are registerable just the same under the *Land* Registration System. It seems clear that having expressly permitted in its initial sections (sec. 2) the registration of title "to land or buildings or an interest therein" and declared that the proceedings shall be *in rem* against the land and the buidings and improvements thereon, the statute (Act 496) used in subsequent provisions the word "land" as a short term equivalent "to land or buildings or improvements"[4]. Unless, of course, a different interpretation is required by the intent or the terms of the provision itself, which is not the case of section 99. On the contrary, to consider buildings as within its range would be entirely in line with its purpose because as rightly pointed out by His Honor, it would be unfair for petitioner to enjoy the protection of the assurance fund[5] even as it refuses to contribute to its maintenance.

Wherefore, the appealed order will be affirmed, with costs.

Paras, Pablo, Padilla, Reyes, Jugo; Bautista Angelo and *Labrador, JJ.*, concur.

....I reserve my vote — *Marcelino R. Montemayor.*

(2) In American Law the term "land" is sufficiently broad to include buildings of a permanent character (Chicago, I. & K.R. Co. v. Knuffke, 13 P. 582, 583, 36 Kan. 367 Lightfood v. Grove, 52 Tenn. (5 Heisk) 473, 477; People v. Barker, 47 N. E. 46, 47, 153 N. Y. 93; Crawford v. Hathaway, Neb. 93 N. W. 781, c783, citing McGee Irrigating Ditch Co. v. Hudson, Tex. 22 S. W. 967; In re City of New York, 76 N. E. 18, 19, 183 N. Y. 245; Cincinnati College v. Yeatman, 8 Ohio St. 276, 282).

(3) Manila Building & Loan Association, 13 Phil. 575.

(4) See for instance Secs. 37, 38, 39, 46 etc.

(5) And the land registration system. Atkins Kroll v. Domingo, supra.

VII

People of the Philippines, Plaintiff-Appellee vs. Maximo Pacheco, alias Emong, alias Guemo, Defendant-Appellant, G. R. No. L-4570, July 31, 1953.

1. CRIMINAL LAW; TREASON; VENUE. — It is common knowledge that when the Government found it was no longer necessary to maintain one People's Court for the whole Philippines to try treason indictments, the Congress abolished that Court and directed that treason cases pending before it shall be heard by the respective courts of first instance. There is nothing to indicate congressional intention to disturb the usual rules on jurisdiction or venue of courts of first instance obtaining before the creation of the People's Court.

2. IBID; IBID; IBID; TREASON A CONTINUOUS OFFENSE. — The information alleged in substance that Pacheco, being a Filipino citizen, willfully aided the Japanese in two instances, to wit: (1) the arrest, maltreatment and shooting of Ceferino Rivera on January 2, 1945 in the Municipality of Polo, Bulacan, and (2) the arrest and torture in Manila, in February 1945, of Judge Eugenio Angeles, whom the accused had pointed to the Japanese as a guerrilla major of Polo, Bulacan.

At the opening of the trial, counsel for the defense questioned the jurisdiction of the Bulacan court to take cognizance of the second count, inasmuch as it referred to acts which occurred in Manila. *Held*: The crime of treason may be committed "by executing, either a single or several intentional overt acts, different or similar but distinct and for that reason" it may be considered one single continuous offense. (Guinto v. Veluz 44 O. G. 909). It may therefore be prosecuted in any province wherein some of the essential ingredients thereof occurred. (Sec. 9 Rule 106. (U. S. vs. Santiago 27 Phil. 408; U. S. vs. Cardell 23 Phil. 207).

To uphold appellant's contention would be to permit another prosecution against him in the Court of First Instance of Manila (See Guinto vs. Veluz supra.)

Cardenas and *Casal* for appellant.

Solicitor General Pompeyo Diaz and *Solicitor Pacifico P. de Castro* for appellee.

DECISION

BENGZON, *J.*:

In the year 1950, Maximo Pacheco was tried for treason in the court of first instance of Bulacan, the amended information alleging, in the first count, acts performed in Polo, Bulacan and in the second, acts in the City of Manila.

The Honorable Manuel P. Barcelona, Judge, in a decision dated January 10, 1951, found him guilty as charged, and sentenced him to be imprisoned for life, to pay a fine of ₱10,000 and to indemnify the heirs of Ceferino Rivera in the amount of ₱6,000.60.

The accused appealed in due time. His printed brief assigns four errors that raise two principal issues: (1) jurisdiction of the court to try the second count and (2) credibility of the witnesses.

The information alleged in substance that Pacheco, being a Filipino citizen, willfully aided the Japanese in two instances, to wit: (1) the arrest, maltreatment and shooting of Ceferino Rivera on January 2, 1945 in the Municipality of Polo, Bulacan, and (2) the arrest and torture in Manila, in February 1945, of Judge Eugenio Angeles, whom the accused had pointed to the Japanese as a guerrilla major of Polo, Bulacan.

At the opening of the trial, counsel for the defense questioned the jurisdiction of the Bulacan court to take cognizance of the second count, inasmuch as it referred to acts which occurred in Manila. The Judge overruled the contention, adverting to its orders in previous cases on the same issue. We do not find in this record the reasons of the trial judge. Very probably, however, they refer to the same theory advanced by the People in this appeal relative to one continuous offense consisting of several acts occurring in different provinces, offense which may under the principles governing venue be prosecuted in any province wherein any material ingredient of the offense is shown to have been committed.

The appellant however cites Republic Act No. 311 that in dissolving the People's Court ordered all cases then pending therein to be "transferred to, and tried by, the respective Courts of First Instance of the provinces or cities where the offenses are alleged to have been committed."

It is common knowledge that when the Government found it was no longer necessary to maintain one People's Court for the whole Philippines to try treason indictments, the Congress abolished that Court and directed that treason cases pending before it shall be heard by the respective courts of first instance. There is nothing to indicate congressional intention to disturb the usual rules on jurisdiction or venue of courts of first instance obtaining before the creation of the People's Court. Under the rules, the trial court's jurisdiction may be and should be upheld in this case.

The crime of treason may be committed "by executing, either a single or several intentional overt acts, different or similar but distinct and for that reason" it may be considered one single continuous offense. (Guinto v. Veluz 44 O. G. 909). It may therefore be prosecuted in any province wherein some of the essential ingredients thereof occurred. (Sec. 9 Rule 106). (U. S. v. Santiago 27 Phil. 408; U. S. v. Cardell 23 Phil. 207).

To uphold appellant's contention would be to permit another prosecution against him in the Court of First Instance of Manila (See Guinto v. Veluz supra).

Having disposed of the preliminary question, we may now examine the record.

As to the first count, Isidro Rivera, Dominga Camatos, Antonio de Guzman, Federico San Juan and Regino Galicia took the witness stand, and their combined testimony shows: In the morning of January 2, 1945 four Filipino makapilis (two of them were Maximo Pacheco, 25, and Teofilo Encarnacion) entered the house of Filomena de la Cruz in Pasong Balite, Polo, Bulacan, and arrested her son-in-law Ceferino Rivera, 24, as a guerrilla suspect, in the pre-

sence of his father Isidro Rivera, his wife Dominga Camatos and Filomena (Teofila) de la Cruz. The party was commanded by a Japanese officer. Maximo Pacheco, armed with a rifle, tied the hands of the prisoner. Thereafter the captive was marched to the Japanese garrison at Polo, Bulacan, followed by his near relatives already mentioned. The latter waited for him at the gate for two hours, but in vain. The next day, in the afternoon, they returned in time to see him with three other Filipinos, all tied, walking to the Isla bridge, Polo, guarded by four Filipinos, one of them the appellant, plus one or two Japanese soldiers. Near the foot of the bridge the Filipino captives were shot dead. Antonio de Guzman, whose house stood about thirty meters from the place beheld the massacre, which was also seen by Federico San Juan, farmer, 38, and Regino Galicia, employee, 37. Antonio de Guzman swore it was this appellant who shot Ceferino Rivera on that occasion.

Appellant's overt act of taking part in the apprehension of Ceferino Rivera, as a guerrilla suspect was testified to by Isidro Rivera and Dominga Camatos. But the defense contends that the latter is unworthy of credit because whereas she stated in direct examination that her husband had been arrested by four Filipinos (one of them Maximo Pacheco) yet on cross examination she answered it was a Japanese who made the arrest (p. 285 n.) But on the same page this woman declared:

"P Y los otros cuatro filipinos estaban alli mirando en compania del japones, desde luego?
R El que le ato era un filipino.
P Quien de los filipinos ato a su esposo?
R Maximo Pacheco."

There is consequently no reason to doubt her veracity on this score. Other quotations of the testimony of these two witnesses are submitted by appellant's counsel, in an effort to destroy their credibility. They are either explainable, like the one above discussed, or refer to unsubstantial matters. That this appellant took active part in the arrest and execution of Ceferino Rivera, we have no reasonable doubt. His mere denial can not overcome the positive assertion of the witnesses. And his claim that he was also a guerrilla, was held unfounded by the trial judge. Anyway, we have heretofore declared that such claim is no defense against overt acts of treason. (People vs. Jose Fernando, SC-G.G. No. 1-1138, prom. Dec. 17, 1947; People vs. Carmelito Victoria, SC-G. R. No. L-369, prom. Mar. 13, 1947; People vs Carlos Castillo, SC-G. R. No. L-240, prom. April 17, 1947).

The second charge is also adequately proven by the testimony of Judge Eugenio Angeles, his son Gregorio, and Dr. Ciriaco Santiago.

On February 2, 1945 about 7:30 a.m., the three were on their way to Hermoso Drug Store near Divisoria Market, Manila. Crossing a bridge on Azcarraga Street they met Ricardo Urrutia of Polo, friend of Judge Angeles, who stopped to tell them "the Americans were already in Malolos." Hardly had the party crossed the bridge when Judge Angeles was surrounded by five young men all armed. One of them wearing a mask ordered him to proceed to the Air Port studio nearby, which served as Headquarters of the Kempei Tai, dreaded Japanese organization. One of the young men was the herein accused. Dr. Santiago and Gregorio Angeles were not molested.

In the studio Judge Angeles was brought to a room wherein he saw seven Filipinos (including this appellant) headed by one Santos residing in Polo. The latter asked Judge Angeles if he was a guerrilla, and when he replied in the negative he was struck with a piece of lumber. Then he was subjected to several forms of torture. He was boxed and kicked and given the water cure. But he stoutly denied connection with the underground resistance. This accused was in the room and informed the investigators that he (Judge Angeles) was the chief of the guerrillas of Polo. In view of this imputation the tortures continued. Fortunately for Judge Angeles, the Japanese began their retreat from Manila on February 3, the garrison was vacated, and he managed to escape together with other prisoners.

It may be true, as contended by defense counsel that the tortures undergone by Judge Angeles were described by him as the sole witness; but his apprehension as a guerrilla was witnessed and related in open court by Dr. Santiago and his son Gregorio, compliance with the two-witness rule being thereby effected.

Wherefore, after reviewing the whole record we find no hesitation in finding this appellant guilty of treason.

And as the penalty meted out to him accords with section 114 of the Revised Penal Code, the appealed decision should be, and it is hereby, affirmed with costs. So ordered.

Paras, Pablo, Padilla, Tuason, Montemayor, Reyes, Jugo, Bautista Angelo and *Labrador, J.J.*, concur.

Mr. Justice Feria took no part.

VIII

Nicanor Jacinto, Petitioner vs. Hon. Rafael Amparo, as Judge of the Court of First Instance of Manila, Branch III, and Jose Cojuangco, Respondents, G. R. No. L-6096, August 25, 1953.

DEPOSITION; DISCRETION OF THE COURT.—In the case of Frank & Co. vs. Clemente (44 Phil. 30), it was held that the taking of a deposition rests largely in the sound discretion of the court. Although that decision was rendered under the provisions of the old Code of Civil Procedure (Act No. 190), it is also applicable in the present case, in view of the provisions of section 16 of Rule 18.

Jose P. Laurel for petitioner.
Lorenzo Sumulong for respondents.

DECISION

JUGO, *J.*:

On November 26, 1951, Nicanor Jacinto petitioner herein, filed a complaint against Jose Cojuangco, respondent herein, before the Court of First Instance of Manila, presided over by Judge Amparo, co-respondent herein, in Civil Case No. 15199 of said court, praying for an accounting of the assets of a partnership organized by Nicanor Jacinto and Jose Cojuangco in 1939. Cojuangco filed an answer with a counterclaim, to which Jacinto in his turn filed an answer.

Upon motion of Jacinto, the case was set for trial on February 22, 1952.

On February 8, Jacinto served on Cojuangco a notice for the taking of the latter's deposition by oral examination on February 12, before a Deputy Clerk of the Court of First Instance of Manila.

In the morning of February 12, 1952, the date set for the taking of the deposition of Cojuangco, the latter's counsel, attorney Lorenzo Sumulong, conferred with attorney Fernando Jacinto, son and counsel of Nicanor Jacinto, regarding the possibility of an amicable settlement. In view of this, the taking of the deposition was postponed to February 15, and then to February 18, at 2:00 p.m.

At one o'clock in the afternoon of February 18 or one hour before the time set for the deposition of Cojuangco, the latter served on Jacinto notice of this motion asking the court to order that the deposition be not taken at all, setting said motion for hearing on February 22, the date fixed for the trial. At the same time, Cojuangco served on Jacinto notice that he would take Jacinto's oral deposition at one o'clock p.m. on February 22. Jacinto did not object to the taking of his deposition by Cojuangco, but moved that the hour of the taking be changed for the convenience of both parties. At the hearing of Cojuangco's motion, Jacinto's counsel argued against it. The respondent Judge dictated in open court the following resolution:

"The Court takes exception to the allegation that the taking of a deposition is a matter of absolute right after the answer is filed. See section 16 of the rules. The case is now ready for trial, why don't we proceed? The granting of the taking of a deposition is discretionary to the Court under Section 16. And taking the circumstances, the court finds