

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DIOSDADO COMENDADOR, ACCUSED-APPELLANT.

G.R. No. L-38000. September 19, 1980

Ponente: GUERRERO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/52b398828d7b/>

GUERRERO, J.:

Automatic review of the judgment of the Circuit Criminal Court, 14th Judicial District, Cebu City, in Criminal Case No. CCC-XIV-837-Cebu, finding the accused DIOSDADO COMENDADOR guilty beyond reasonable doubt of the crime of ROBBERY with HOMICIDE, and sentencing him to suffer the supreme penalty of DEATH, and to indemnify the heirs of the deceased Jungie Zaragosa the sum of P625.00, the value of the unrecovered property plus the sum of P12,000.00, without any subsidiary imprisonment in case of insolvency, and to pay the costs.

The trial court based its ruling on accused's plea of guilty which it found to have been "freely and voluntarily" given and reiterated despite the Court's admonition that the death penalty may be imposed, on the accused's extrajudicial confession, marked Exhibit "J", as well as on the following evidence which the Court required the prosecution to present to determine the circumstances obtaining in the case:

1. Edilberto Zaragosa, a farmer residing in Cadiz City, testified that he is the father of the 22-year old deceased, Jungie Zaragosa; that he knows the accused very well as he is a helper in his house; that on October 22, 1973, his son, who was working in Zamboanga City and at that time, on vacation in their hacienda, asked permission to leave for Cagayan de Oro via Cebu; that the accused advised his son that "if he goes to Cebu without any companion they will just tickle him with a knife and then get his bag and since he was very familiar with Cebu, he should accompany him to Cebu." [1]

He likewise declared on the witness stand that his son had money of his own but despite that, he still gave him P200.00 to make his vacation worthwhile. He told his brother to give the money. He further said that his son brought along with him a bag of clothes and wore a Citizen Day Date wrist watch, identified as Exhibit "A", with an engraving "Jungie Zaragosa" on the side. Later, he learned that his son had been robbed and killed in Toledo City and that he went there to bring home his body. [2]

2. Dolores Reponte, a farmer residing at Cantabako, Toledo City, declared on the witness stand that at about 12:00 noon on October 25, 1973, while she was drying ypil-ypil leaves by the side of the hill, two passers-by who turned out to be the accused and the deceased in this case, asked her if there was any road where they could pass. To which query, she replied that there was none and the only place which they could reach would be Oling. After the accused remarked that he is familiar with the place, both of them proceeded towards the bushes. At around 5:00 o'clock, she was informed by Patrolman Panda-an of the presence of a dead man at a distance from her farm and when she went there to see, she recognized the man lying dead as the companion of the accused. [3]

3. Angelo Obenque, a farmer and resident of Media Once, Toledo City, testified that he knows the accused in this case very well as the latter happened to be his neighbor for fifteen years while residing in Tuburan. At about

2:00 o'clock in the afternoon on October 25, 1973, the accused arrived in his house with a watch and a travelling bag, identified as Exhibits "A" and "C" respectively. When asked where he came from, the accused said that he had been to Cebu City and also Talisay, where he had just taken a bath. He likewise said that he had some wet clothes, including two pairs of pants, identified as Exhibits "D" and "E", which he took out to dry. When he went upstairs, he pulled out from his pocket a wallet where he picked out two P50.00 bills and one P20.00 bill and he placed them on the window sill to dry. After eating his supper with them at about 5:00 o'clock, he begged leave to go around the place and returned at 8:00 o'clock in the evening. He spent the night with them and at 5:00 o'clock the following morning, he left.[4]

4. Dioscoro Panda-an, a police corporal in Toledo City, declared that at about 3:30 o'clock in the afternoon of October 25, 1973, while he was at the police precinct, he received a report from the barrio captain about a dead person found. He immediately proceeded to the scene which was about two kilometers from the national road. He described the place as a forest with thick trees and no inhabitants, the nearest hut which was not even occupied being about one hundred meters from the creek.

Upon arriving thereat, he took steps to preserve the scene. He found the fatal weapon, identified as Exhibit "F" about thirteen feet from the body of the deceased, and a pair of shoes floating in the water near the body, identified as Exhibit "G". He then requested the help of the PC to guard the place and called for a medico-legal officer and a photographer. Thereafter, he asked the help of the people who repaired to the scene to get the body of the deceased to Toledo City for an autopsy.[5]

5. Edilberto Evangelista, a police lieutenant, testified that on October 26, 1973, he received a tip that the accused was in Tuburan. After directing a certain Sgt. Borres to verify the tip, they proceeded to the place and sought the assistance of the local police. At around 1:30 o'clock in the morning of the following day, upon arriving at the house of the accused, they woke up the occupants and interrogated the accused who readily admitted the killing and turned over the wrist watch, the bag full of clothes and the wallet containing P70.00 marked as Exhibit "H". They likewise gathered from the accused that he got P122.50 from the deceased and that he killed him because he was in dire need of money for his wife and children.[6]

6. Gabriel Trocio, Jr., Special Counsel of Toledo City, declared on the witness stand that on October 27, 1973, the accused went to his office to sign a prepared extra-judicial confession, identified as Exhibit "J". As an administering officer, he informed the accused of his rights under the law, namely: that he had the right to remain silent and to be assisted by counsel. To this statement, the accused said that since everything is true, he will sign the same notwithstanding the absence of counsel. He likewise inquired whether the confession was voluntary on his part and as a standard operating procedure, he requested a City Health Department physician to examine the body of the accused. Thereafter, he requested the accused to read the confession and the accused even read it aloud and then affixed his signature.[7]

The extra-judicial confession of the accused presented by the prosecution as Exhibit "J" reads as follows in English as translated from the original Cebuano dialect: (Original Records, pp. 6-7)

"CONFESSION OF DIOSDADO CANTORNE COMENDADOR TAKEN BY SGT. ERASMO M. MENDEZ, MEMBER OF THE TOLEDO CITY POLICE DEPT. AT THE OFFICE OF THE COMPLAINT AND INVESTIGATION SECTION THIS 27th DAY OF OCTOBER 1973, IN THE PRESENCE OF LT. EDILBERTO M. EVANGELISTA, ATTY. ROMEO RAMOLETE.

INITIAL STATEMENT: This investigation that I am conducting now is about an incident which you have a participation and you are informed of your rights based on our Constitution, to hire the services of a lawyer during this investigation and you also have the right not to answer questions which you think will incriminate you, do you understand?

ANSWER: Yes, I understand.

Q -

Who is the lawyer whom you want to assist you in this investigation?

A -

I don't need a lawyer because I know the purpose of this investigation and I also know that all that I will declare here will be used against me during the trial of this case in the court.

Q -

State your name, age, and all of your per-sonal circumstances?

A -

DIOSDADO CANTORNE COMENDADOR, 23 years old, married, residing at Sumon, Tuburan, Cebu.

Q -

What is your occupation?

A -

Farming.

Q -

In what place are you farming?

A -

In Hacienda Zaragosa, owned by Roberto Zaragosa, in Cadiz City.

Q -

Why are you here now in the office of the Police of Toledo?

A -

I am here now arrested because of an offense.

Q -

What offense did you commit that you were arrested?

A -

Because I killed a person.

Q -

Who is the person whom you said to have killed, do you know him?

A -

Yes, I know, Jungie Zaragosa.

Q -

Why do you know this man whom you killed?

A -

Because this man is the son of my master in whose hacienda I am working.

Q -

When and where did you kill Jungie Zaragosa?

A -

Last Thursday, October 25, 1973, at about 12:00 noon in sitio Apid, Cantabaco, Toledo.

Q -

What was the reason why you killed Jungie Zaragosa?

A -

I needed money badly because my wife and child were hardup and I killed Jungie Zaragosa because he had money.

Q -

How much money did you take from Jungie Zaragosa at that time?

A -

There was One Hundred Twenty One pesos and fifty centavos, (P121.50)

Q -

What else did you take from Jungie Zaragosa after the incident?

A -

A wristwatch, Citizen day date, 27 jewels, super king (with engraved name of the victim (Jungie Zaragosa) (suspect identifying the watch); and clothes of Jungie Zaragosa and pants, polo shirt, jacket that were packed inside a brown travelling bag.

Q -

What did you use in killing Jungie Zaragosa at that time?

A -

A hunting knife nine (9) inches long with carve handle with bronze ring (suspect identifying the fatal weapon when shown to him for identity)

Q -

Who is the owner of the hunting knife you used in killing him?

A -

I am the owner of the hunting knife I used.

Q -

How many times did you stab Jungie Zaragosa?

A -

More than two (2) times.

Q -

Which part of the body did you stab him (Jungle Zaragosa) first?

A -

At the chest then on the neck and I did not know anymore because we grappled on the ground.

Q -

Were you able to kill him at that time?

A -

Yes, I killed him because I did not leave him until he died.

Q -

After killing Jungie Zaragosa, what did you do?

A -

I took his wristwatch from his left wrist, then took his trousers off and run away because I became afraid of his looks.

Q -

Where did you go when you ran away from Jungie Zaragosa?

A -

I proceeded to Don Andres Soriano, Lutopan, Toledo City in order to take a bus to my friend Angelo Ubenque in Media Once.

Q -

What did you do in the house of Angelo Ubenque at that time?

A -

I passed the time there and I was thinking of going home to Sumon Tuburan, Cebu that following dawn and on that early evening we were drinking in the house of Angelo Ubenque.

Q -

How much did you spend in the drinking that you had in the house of Angelo Ubenque?

A -

P15.00 all in all.

Q -

What did you take in going home to Tuburan, Cebu that morning?

A -

A CBC bus No. 122 and I arrived Tuburan at 8:00 in the morning, October 26, 1973.

Q -

Why did you happen to be with Jungie Zaragosa from Cadiz to Cebu?

A -

Because I was requested by the father of Jungie Zaragosa to conduct him to Cebu because he was leaving for Cagayan de Oro.

Q -

Did you know that Jungie Zaragosa had money in his position?

A -

Yes, I know because I was the one given by his uncle the amount of One Hundred Eighty Two Pesos (P182.00).

Q -

Why are you wounded on the hand?

A -

My right hand is wounded by the hunting knife I used in killing him because he fought back at first until he died.

Q -

Are you willing to sign this statement stating that nobody threatened you, promised you of a reward, and that you are doing so on your own voluntary act?

A -

Yes, I am willing to sign.

Q -

Have you read and understood all before signing?

A -

Yes, I read and understood all before I sign.

SUBSCRIBED AND SWORN to before me this 27th day of October 1973 at Toledo City, Philippines.

(SGD.) DIOSDADO CANTORNE COMENDADOR

Affiant

(SGD.) GABRIEL L. TROCIO JR.

Special Counsel

Toledo City”

WITNESSES:

1. (SGD.) MONTEMAYOR MAGDALENO

2. (SGD.) COLUMBO R. LISTON

The prosecution, after submitting its evidence, rested its case. The defense, however, did not present any evidence

nor did the accused take the witness stand. The case was, thereupon, submitted for decision.

In this review en consulta of the judgment of the trial court, which as aforesated, convicted Diosdado Comendador of the crime of robbery with homicide and sentenced him to death, the accused-appellant raised the following assignment of errors:

- The trial court erred in not taking appellant's conditional plea as a plea of not guilty.
- The trial court erred in admitting Exhibit "J", the extra-judicial confession of the appellant.
- The trial court erred in finding that the guilt of the appellant was proved beyond reasonable doubt
- The trial court erred in finding against the appellant the aggravating circumstances of craft, uninhabited place and abuse of confidence and obvious ungratefulness.[8]

The task of seeking a reversal of a judgment of conviction is difficult. It is more so if the judgment is anchored not only on a plea of guilty and an extra-judicial confession but also on several testimonial evidence demonstrating accused-appellant's culpability beyond reasonable doubt. While counsel for accused-appellant has performed his duty well and argued ably for the defense, We must affirm the judgment of conviction with the modification, however, that accused-appellant be sentenced to reclusion perpetua instead of death, as will be explained hereunder.

It is elementary that a plea of guilty, besides being a mitigating circumstance, is a judicial confession of guilt - an admission of all the material facts alleged in the information, including the aggravating circumstances alleged. To be considered, it must be made spontaneously in open court prior to presentation of evidence. It must also be made unconditionally.

In the case at bar, while it is true that accused-appellant requested for a lesser penalty, such does not make his plea of guilty conditional. It remains to be an admission of the facts alleged in the information charging robbery with homicide. At most, said plea for a lesser penalty is an appeal to emotion as it does not assail, restrict or qualify the information. It does not even specify the penalty desired to be imposed. Unlike in *People vs. Sabilul*, 93 Phil. 567, the case cited by accused-appellant in support of his contention, the plea for the lesser penalty of destierro qualifies the information for murder to that crime described under Article 247 of the Revised Penal Code, to wit: death under exceptional circumstances, as the plea therein specifies a certain penalty to be imposed.

That the accused-appellant intended his plea of guilty to be unconditional is further bolstered by the fact that he did not adduce any evidence in his favor and merely submitted the case for decision. Although he had an opportunity to do so after the prosecution rested its case, he did not avail of the same. He remained resolute in his decision to own the crime. His claim, therefore, that his plea of guilty is conditional is inconsistent with his candor, spontaneity and insistent admission of guilt in the trial court. Clearly, this change in his stand is now a belated and unconvincing effort to avoid conviction.

By this plea of guilty alone, accused-appellant has supplied the necessary proof as to his culpability. No other proof is required.

It would not be amiss to state, however, with respect to the second assignment of error that by mandate of the New Constitution, confessions obtained without informing the accused of his right to remain silent and to counsel are placed in the same category as coerced confessions and are, therefore, deemed null and void and inadmissible in evidence. Section 20, Article IV of the New Constitution expressly declares:

"No person shall be compelled to be a witness against himself. Any person under investigation for the commission of an offense shall have the right to remain silent and to counsel, and to be informed of such right.

No force, violence, threat, intimidation, or any other means which vitiates the free will shall be used against him. Any confession obtained in violation of this section shall be inadmissible in evidence."

Explaining said provision, this Court held in *Magtoto vs. Manguera*, 63 SCRA 4, that a confession obtained from a person under investigation for the commission of an offense, who has not been informed of his right (to silence and) to counsel, is inadmissible in evidence if the same had been obtained after the effectivity of the New Constitution on January 17, 1973. Conversely, such confession is admissible in evidence against the accused, if the same had been obtained before the effectivity of the New Constitution, even if presented after January 17, 1973, and even if he had not been informed of his right to counsel, since no law gave the accused the right to be so informed before that date.

In the case at bar, the extra-judicial confession given by the accused was made on October 27, 1973 (after the effectivity of the New Constitution). Nevertheless, since the confession itself indicates on its face that the accused was advised of his right to remain silent and also of his right to counsel but he not only waived both rights but also failed to contradict, deny or rebut the same by failing to take the witness stand although he was assisted by two defense counsels, We find no legal impediment or obstacle in admitting the said confession after its genuineness and authenticity had been duly proven. The second assignment of error of accused-appellant is, therefore, without merit.

Even without the accused-appellant's extra-judicial confession quoted above, his plea of guilty coupled with the prosecution's evidence pointing to him as the author of the crime, proved his guilt beyond reasonable doubt. We reject the claim of the defense that the presentation and offer of the prosecution evidence indicate that the trial court, upon whose directive the prosecution acted, entertained doubts on the plea of accused-appellant.

Section 5, Rule 118 of the Rules of Court itself provides that "where the defendant pleads guilty to a complaint or information, if the trial court accepts the plea and has discretion as to the punishment for the offense, it may hear witnesses to determine what punishment shall be imposed." (italics supplied)

As early as *U.S. vs. Talbanos*, 6 Phil. 541, it has been held that Courts of First Instance may sentence defendants in criminal cases who plead guilty to the offense charged in the complaint, without the necessity of taking testimony. But it was likewise held therein that while there is no law requiring it, yet in every case under the plea of guilty where the penalty may be death, it is advisable for the court to call witnesses for the purpose of establishing the guilt and degree of culpability of the defendant.

Long settled is the rule, therefore, that "the proper and prudent course to follow where the accused enters a plea of 'guilty' to capital offenses especially where he is ignorant with little or no education, is to take testimony not only to satisfy the trial judge himself but to aid the Supreme Court in determining whether the accused really and truly understood and comprehended the meaning, full significance and consequences of his plea." (*People vs. Bulalake*, 106 Phil. 767, 770; *People vs. Baluyot*, 75 SCRA 148; *People vs. Duaban*, L-31912, August 24, 1979). There can, therefore, be no error imputed to the trial court for having directed the prosecution to present evidence after the accused-appellant pleaded guilty.

From the testimonies and exhibits thus presented, We hold that the several circumstantial evidence more than suffice to overcome the presumption of innocence. While there was no eyewitness to the killing, there are indubitable proof that he is guilty thereof. Prosecution witness Dolores Reponte pointed to him as the person she saw with the deceased just a few hours before the latter's body was found. Another prosecution witness, Angelo Obenque, declared under oath that the accused-appellant dropped by his house on that fateful day with a watch, a travelling bag, two pairs of wet pants, and a wallet containing wet bills amounting to P120.00, all proven to belong to the victim. Finally, Edilberto Evangelista, a police lieutenant, also testified that accused-appellant

readily admitted the robbery and killing and turned over the aforementioned things he took from the victim. All these incriminating circumstantial evidence, having remained unexplained, make out a clear case against accused-appellant. As this Court said in *People vs. Servillano Ma. Modesto, et al.*, 25 SCRA 36:

"A rule of ancient respectability now molded into tradition is that circumstantial evidence suffices to convict only if the following requisites concur: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

The standard postulated by this Court in the appreciation of circumstantial evidence is well set out in the following passage from *People vs. Ludday*: 'No general rule can be laid down as to the quantity of circumstantial evidence which in any case will suffice. All the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent, and with every other rational hypothesis except that of guilt.'

It has been said, and we believe correctly, that the circumstances proved should constitute an unbroken chain which leads to one fair and reasonable conclusion which points to the accused, to the exclusion of all others, as the guilty person. From all the circumstances, there should be a combination of evidence which in the ordinary and natural course of things, leaves no room for reasonable doubt as to his guilt."

In Our considered view, the above standards have been satisfactorily met and complied with in the instant case.

We disagree with accused-appellant's argument that even assuming that the extra-judicial confession is admissible, it is not sufficient to convict because the evidence of the corpus delict consisting of the death certificate and the necropsy report were not properly identified.

It should be remembered that the rule that an accused person cannot be convicted upon a mere confession without some independent proof indicating that a crime has been committed, does not mean that every element of the crime must be made out by proof apart from the confession, but merely that there should be some evidence, apart from the confession, tending to show that a crime has been committed, as for example, in a case of homicide, there should be some proof of the fact of death, as by the production of the dead body. The rule requiring independent proof of corpus delict is merely intended to guard against conviction upon false confession.[9]

In the case at bar, despite the failure of the death certificate and the necropsy report to serve as evidence, the fact of death of Jungie Zaragosa is conclusively shown by the testimonies of the father, Edilberto Zaragosa, and the other prosecution witnesses: Dolores Reponte and Dios-coro Panda-an. They all declared on the witness stand that they saw the body of the deceased having marks that indicate foul play. In addition thereto, prosecution witness Panda-an identified in court the death weapon he saw about 13 feet from the body of the deceased as well as the photographs of the deceased at the scene of the crime which he requested a photographer to take. All these prove that a crime had in fact been committed.

Moreover, it has been held that the absence of death or burial certificate ought not, in the least, put in doubt the reality of the killing.[10] Corpus delict, being the fact of the commission of the crime, may be proved by testimonial evidence.[11]

Notwithstanding the plea of guilty, however, which, as a rule, constitutes also an admission of all the aggravating circumstances set forth in the information, We hold that the three aggravating circumstances listed therein, namely: 1. craft; 2. uninhabited place; and 3. abuse of confidence or obvious ungratefulness, are not supported by the evidence. In *People vs. Corachea*, L-30101, July 16, 1979, citing *People vs. Galapia*, 84 SCRA 526, this Court held:

"The rule is that a judicial confession of guilt admits all the material facts alleged in the information including

the aggravating circumstances listed therein. But, where such circumstances are disproven by the evidence, it should be disallowed in the judgment. Thus, in *People vs. Gungab* (64 Phil. 779), the Court ruled 'that when an accused who lacks instruction, pleads guilty to the crime of parricide described in the information as having been committed with the aggravating circumstances of treachery and evident premeditation and his testimony given under oath before the trial court, upon his petition, fails to show the existence of such aggravating circumstances, his plea of guilty shall be understood as being limited to the admission of having committed the crime of parricide, not of having done so with treachery and evident premeditation.'"

Thus, the aggravating circumstance of craft in the commission of the crime based on the allegation in the information that the accused employed a cunning scheme by acting as guide professing to be familiar with Cebu City, should not and cannot be appreciated as an aggravating circumstance because it is not such an intellectual trickery or cunning device, scheme or artifice resorted to by the accused in order to carry out his evil design. The accused may have been actually familiar with Cebu City as he was a resident of Sumon, Tuburan, Cebu. He may also have been motivated with good intentions to act as guide at the start of the trip from Cadiz City but only decided to kill the victim upon reaching the forest area at Sitio Apid, Cantabaco, Toledo City. And there is no showing that the accused merely pretended to be familiar with Cebu City.

The aggravating circumstance of uninhabited place which is alleged in the information in that "(t)he accused deliberately lured the victim in such a place with the pretense to visit his wife fully knowing that the victim is not acquainted with the place to ensure the commission of the offense" should not also be appreciated against said accused because the evidence shows that the body of the victim was found a few hours after his death, a fact indicating that the place is not unpeopled. In *U.S. vs. Devela*, 3 Phil. 625, such aggravating circumstance was not considered as the brother of the deceased arrived at the scene of the crime shortly after the wounding of the deceased and immediately thereafter the officers of the law were in pursuit of the defendants.

As to the aggravating circumstance of abuse of confidence or obvious ungratefulness based on the allegation that "(h)e was given food and shelter by the father of the victim, aside from his salary as a farm laborer and was also treated by the victim for being their farm laborer," the contention of the accused-appellant that such aggravating circumstance should not be considered against him is meritorious. For this circumstance to be taken and appreciated, it is necessary that there exists a relation of trust and confidence between the accused and the one against whom the crime was committed and the accused made use of such relation to commit the crime. Inasmuch as the relation of trust and confidence that exists in this case is between the accused-appellant and the father of the deceased, and that the deceased was then residing apart from his father as he was working in Zamboanga City, there is no immediate and personal relationship between accused-appellant and the deceased. Hence, abuse of confidence or obvious ungratefulness is not warranted or justified under the premises.

The crime committed by the accused-appellant is robbery with homicide penalized under Article 294, paragraph 1, Revised Penal Code, with the penalty of reclusion perpetua to death, without any aggravating circumstance but with two mitigating circumstances of plea of guilty and voluntary surrender. Pursuant to Article 63, par. 3, R.P.C., the lesser penalty of reclusion perpetua is hereby imposed on the accused-appellant.

IN VIEW OF ALL THE FOREGOING, the judgment of the trial court under review is hereby MODIFIED in that the accused-appellant Diosdado Comendador is hereby sentenced to reclusion perpetua, to indemnify the heirs of the deceased Jungie Zaragosa the sum of P625.00, the value of the unrecovered property, and the sum of P12,000.00 as indemnity, without subsidiary imprisonment in case of insolvency, and to pay the costs.

Judgment modified.

SO ORDERED.

Fernando, C.J., Barredo, Makasiar, Aquino, Concepcion, Jr., Fernandez, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Teehankee, J., concurs in a separate opinion.

[1] T.S.N., pp. 4-5.

[2] Ibid., pp. 5-7.

[3] Ibid., pp. 8-10.

[4] Ibid., pp. 11-14.

[5] Ibid., pp. 15-19.

[6] Ibid., pp. 20-24.

[7] Ibid., pp. 25-30.

[8] Brief for Accused-Appellant, rollo, p. 65.

[9] People vs. Bantagan, 54 Phil. 834.

[10] People vs. Kalim, 81 Phil. 107.

[11] Cf. People vs. Kiram, et al., L-28485, October 30, 1979.

CONCURRING**TEEHANKEE, J.:**

I concur and write this brief opinion to maintain my dissent in the cases of Magtoto vs. Manguera (63 SCRA 4, 27) as against the reiteration of its ruling in the opinion written for the Court by Mr. Justice Juvenal K. Guerrero. I have maintained such dissent in later cases invoking the Magtoto ruling as per my separate opinions in People vs. Dumdum, 92 SCRA 198, 204 (1979), People vs. Garcia, L-40106, March 13, and People vs. Villacores, L-35969, May 16, 1980, wherein I urged that such ruling be subjected to reexamination in an appropriate case in the light of the compelling reasons given by the late Chief Justice Fred Ruiz Castro and Mr. Chief Justice Fernando, then Senior Associate Justice, in their respective dissents therein.

The accused's extra-judicial confession herein, having been given on October 27, 1973 without counsel, was clearly inadmissible in evidence under the provisions of Section 20 of the Bill of Rights of the 1973 Constitution quoted on page 8 of the main opinion. As against the ruling herein that the confession was admissible "even if he [the accused] had not been informed of his right to counsel, since no law gave the accused the right to be so informed before that date [January 17, 1973], ' I hold with the late Chief Justice Castro, as articulated by him in his dissenting opinion in Magtoto "that the particular provision of Section 20 of Article IV of the 1973 Constitution which invalidates a confession obtained during custodial interrogation was not afforded the assistance of counsel, should operate retrospectively as of June 15, 1954 when Republic Act 1083 introduced the second paragraph of Article 125 of the Revised penal code recognizing the right of a detained person to counsel in any custodial inquest," and "that the second paragraph of Article 125 makes it an obligation on the part of nay detaining officer to inform the person detained of his right to counsel before the very inception of custodial

inquest, and that this obligation was made a statutory one as early as in the year 1954." (63 SCRA at pages 21, 24).

Thus, the late Chief Justice Castro forcefully stressed in his dissent that -

"I regard a intolerable in a civilized nation, which proclaims equal justice under law as one of its ideals, that any man should be handicapped when he confronts police agencies because of the happenstance that he is poor, underprivileged, unschooled or uninformed. The majority interpretation does violence to the democratic tradition of affording the amplest protection to the individual- nay and every individual-against the tyranny of any governmental agency. It should be unthinkable that an innocent man may be condemned to penal servitude or even sent to his death because he is not blessed with familiarity with the intricacies of the law.

xxx xxx xxx

"I hold no brief against custodial interrogation per se. But I do entertain mortal fear that when a detained person is subjected, without the assistance of counsel, to custodial interrogation by peace officers, official lawlessness could be the rule and not the exception. Witness the innumerable cases in the annals of adjudication where this Court has set at naught and declared inadmissible confessions obtained from detained persons thru official lawlessness. It is a verity in the life of our nation that people without influence and without stature in society have more often than not, been subjected to brutal and brutalizing third-degree methods, if not actually framed, by many police agencies in this country. Instead of blinking our eyes shut to this reality, we must recognize it for what it is.

"I am completely conscious of the need for a balancing of the interests of society with the rights and freedoms of the individual. I have advocated the balancing-of-interests rule in all situations which call for an appraisal of the interplay of conflicting interests of consequential dimensions. But I reject any proposition that would blindly uphold the interests of society at the sacrifice of the dignity of any human being.

xxx xxx xxx

"Perhaps, my brethren may not begrudge this paraphrase of Justice William Douglas as a conclusion to this dissent: the rights of none are safe unless the rights of all are protected; even if we should sense no danger to our own rights because we belong to a group that is informed, important and respected, we must always recognize that any code of fair play is also a code for the less fortunate." (63 SCRA at pages 24, 25 and 27).

Neither will it do to aver that the denial of such rights to silence and to counsel were waived by the accused as indicated by the confession itself" on its face" (main opinion, at page 9). It has been long settled that such waiver of constitutional rights must be clearly, intelligently and voluntarily given and the burden of showing such express waiver has not been discharged by the prosecution. Certainly, the perfunctory statement most likely placed in the mouth of the accused in the written record of the "confession" that "I don't need a lawyer" cannot be said to constitute a good and valid waiver. So, the Chief Justice held for the Court in *People vs. Caquiao*, L-38975, January 17, 1980, in dismissing the People's petition for admission of the accused's extra-judicial confession which had been taken by the police without the assistance of counsel, after noting that "(I)t was not shown that the alleged waiver was given freely and voluntarily. The questioning was rather perfunctory."

As indicated above, I nevertheless concur with the Court's judgment of conviction, since even with the exclusion of the confession, the prosecutor's evidence together with the accused's guilty plea in open court amply prove his guilt beyond reasonable doubt.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.