

LANDAWI PARASAN BILAAN, ET AL., PETITIONER, VS. VICENTE N. CUSI, ETC., RESPONDENTS.*G. R. No. L-18179. June 29, 1962*

Ponente: BAUTISTA ANGELO, J.

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Landawi Parasan, Antik Felix and Eris Seroc were charged with robbery with multiple homicide before the Court of First Instance of Davao. These three accused were Bilaans who do not know English, Spanish, Tagalog or the Visayan dialect for which reason efforts were made on the part of the government to look for an interpreter in order that the nature of the charge and of the proceedings could be interpreted to them and in return they may explain their defense to the court. These efforts apparently were of no avail until November 4, 1960 when the court was able to secure the services of Atty. Primo S. Ocampo, a local practitioner, who understands and speaks the Bilaan dialect. In spite of this shortcoming, however, it would appear from the record that the arraignment and the hearing were commenced in the absence of an interpreter with the result that when Atty. Ocampo came to the case the prosecution had already finished the presentation of its evidence. Among the pieces of evidence presented were the affidavits or confessions allegedly made by the three accused wherein their guilt was admitted. Counsel for the defense objected to their admission on the ground of lack of proper identification.

On November 4, 1960, when the case was continued for the presentation of the evidence for the defense, Atty. Primo S. Ocampo, who was then appearing for the first time, began presenting the evidence. He introduced as his first witness one Timonas Felix who testified that he saw some policemen and members of the Philippine constabulary beat the three accused in connection with the execution of said confessions, the purpose apparently being to prove that said confessions were involuntary. The fiscal objected to the presentation of such testimony, and to any other evidence that may tend to prove that the confessions had been extorted, on the ground that the defense did not make any reservation to dispute the voluntariness of said confessions. The objection was sustained over the opposition of Atty. Ocampo. But counsel argued that no such reservation could have been made because it was only after he assumed the defense of the accused that he came to know that said confessions were involuntary. Since the effort of Atty. Ocampo to have the ruling of the court reconsidered proved futile, he interposed the present petition for certiorari.

The three accused herein are Bilaans who do not know English, Spanish, Tagalog or the Visayan dialect so that there was need of an interpreter in order the nature of the information as well as of the court procedure may be explained and interpreted to them. While some efforts were made by the government to look for an interpreter their efforts only bore fruit after the prosecution had finished the presentation of its evidence. And among the pieces of evidence presented were the affidavits or supposed confessions of the accused. It is true that at that time the accused were represented by counsel who admittedly did not know the Bilaan dialect. It is however to be assumed that not knowing the dialect of the accused he was not in a position to adequately prepare their defense even if he had to appear as counsel de officio. It is undoubtedly for this reason that when said confessions were presented he only objected thereto on the ground of lack of proper identification. Then came Atty. Primo S.

Ocampo whose assistance was required because of his knowledge of the Bilaan dialect, and it was then that Ocampo, after conferring with the accused, came to know for the first time that the confessions were not given voluntarily. For all we know, they were made to swear to them even without knowing fully their contents. And so, Ocampo, believing to be his duty to present witnesses to prove that said confessions were not given freely, deemed it proper to present evidence on the matter. But his efforts were thwarted because of a technical objection of the fiscal.

Considering that the three accused are ignorant, and when the evidence for the prosecution was presented they did not have the benefit of an interpreter, even if they were assisted by a counsel who does not possess knowledge of the dialect, it is the sense of this Court that Atty. Primo S. Ocampo, the new counsel, should be given an opportunity to present evidence regarding the circumstances under which the alleged confessions were made if we want that fairness and justice be done to the accused. Anyway, no harm would be caused to the prosecution, for whatever may be proven on that matter, it could be disproved if it is not in accordance with the truth.

Wherefore, petition is granted. The order of the court a quo subject of the petition is hereby set aside. The case is remanded to the court a quo for further proceedings. No costs.

Bengzon, C. J., Padilla, Labrador, Concepcion, Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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