

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEONARDO DE LOS SANTOS, ACCUSED-APPELLANT.

G.R. No. L-35598. May 29, 1987

Ponente: BIDIN, J.

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BIDIN, J.:

This is an appeal from a judgment of the former Court of First Instance of Basilan City, which con-victed Leonardo de los Santos of the crime of Murder and sentenced him to reclusion perpetua, to indemnify the heirs of the victim in the amount of P12,000.00 without subsidiary imprisonment in case of insolvency and to pay proportionate costs.

Appellant Leonardo de los Santos and Alfredo Lacastesantos were charged with the crime of Murder in an Information which reads:

"That on or about the 29th day of November 1971, and within the juris-diction of this Honorable Court, viz., at Tairan, Isabela, City of Basilan, Philippines, the above named accused, armed with a bolo and a knife, conspir-ing and confederating together, aiding and assisting one another, and with treachery and evident premeditation, did then and there willfully, unlaw-fully and feloniously, assault, attack and hack one Gregorio Dotado, thereby inflicting hack wounds upon the body of said Gregorio Dotado, which caused his death.

"Contrary to law." (p. 5, Rollo)

On January 31, 1972, only appellant was arraigned and he pleaded not guilty to the charge (p. 13, Original Records). Trials were conducted and on May 24, 1972, appellant, as already stated, was convicted. It was only on August 16, 1972 that the other accused, Alfredo Lacastesantos, was arraigned and he pleaded not guilty (p. 68, Original Records). On even date, Prosecuting Fiscal Laurencio E. Saavedra orally moved for the dis-missal of the case against Lacastesantos for the reason that the prosecution is bereft of evidence sufficient to convict Lacastesantos. The trial court dismissed the case against Lacastesantos for the reason that although appellant Leonardo de los Santos was con-victed, his conviction was due to his extrajudicial confession and that Lacastesantos was merely implicated by the appellant as one of the participants of the crime (p. 69, Original Records).

The pertinent facts that gave rise to the instant prosecution are as follows:

In the early morning of November 30, 1971, a certain Gregorio Dotado was found dead by his sister at the junction of a trail leading to his house at Tairan, Isabela, Basilan City. Francisco Dotado, the father of the deceased, upon being informed, reported the matter to the manager of Tairan Plantation who notified the police authorities. There was no eye-witness to the commission of the crime. The police authorities immediately began the investigation of the case. Patrolman Conrado D. Francisco of the Basilan Police Department learned that prior to his death, the victim Gregorio Dotado was courting a certain Herminia Garcia and he had a rival by the name of Leonardo de los Santos, appellant herein. On December 6, 1971, at around 5:30 p.m., appellant was picked up for ques-tioning by the police authorities of Basilan City. The following day, appellant voluntarily executed an

affidavit wherein he confessed to his participation in the killing of the deceased. The said affidavit was sworn to by appellant before Clerk of Court Ruben Ramos of the City Court of Basilan. The affidavit which was marked as Exhibit "D" reads:

"AFFIDAVIT

STATEMENT OF LEONARDO DE LOS SANTOS y SAGDI taken by Pat. Conrado Francisco, in the Office of the Secret Service Di-vision, Isabela, Basilan City, on Decem-ber 7, 1971, at about 7:00 a.m., in the presence of Police Lieutenant Marciano Alberto.

1. QUESTION: Are you willing to tell the truth nothing but the whole truth in answer to all questions that I may ask you in this investigation?

ANSWER: Yes, sir.

2. Q/ - Please state your name, age, civil status and other personal circumstances?

A/ - Leonardo delos Santos y Sagdi, 23 years, single, farmer and resident of Subaan, Tairan, Isabela, this City.

3. Q/ - Do you personally know Gregorio Dotado a resident of Tairan, Isabela, this City?

A/ - Yes, sir.

4. Q/ - Can you tell me now where is Gregorio Dotado?

A/ - He is already dead sir.

5. Q/ - Why do you know he is already dead?

A/ - Alfredo Lacastesantos and myself were the one who killed Gregorio Dotado.

6. Q/ - When did this killing incident happen?

A/ - Last November 29, 1971, at about 9:00 p.m.

7. Q/ - Where did the killing of Gregorio Dotado take place?

A/ - On trail leading to his house, that is outside of the boundary of Alano's Plantation, at Tairan, Isabela, this City.

8. Q/ - With what kind of weapon did Alfredo Lacastesantos and your-self use in killing Gregorio Dotado?

A/ - Alfredo Lacastesantos used a knife, while myself with a bolo.

9. Q/ - Where is the bolo now that you used in killing Gregorio Dotado?

A/ - I left it in the possession of Felipe Sagdi, at Subaan, Tairan, Isabela, this City.

10. Q/ - Who owns the bolo that you used in killing Gregorio Dotado?

A/ - Felipe Sagdi sir, but of course without his knowledge.

11. Q/ - How about the knife of Alfredo Lacastesantos can you tell me where is it now

A/ - The knife of Alfredo Lacastesantos was turned over to me immediately after the killing of Gregorio Dotado, but I left in the possession of Abtu Sahdi, at Tairan, Isabela, this City.

12. Q/ - Was Gregorio Dotado with a companion when you and Alfredo Lacastesantos waylaid him on a trail leading to his house, on the night of November 29, 1971, at about 9:00 o'clock?

A/ - No sir, he was alone.

13. Q/ - What prompted you and Alfredo Lacastesantos to kill Gregorio Dotado?

A/ - Sometimes two years ago Gregorio Dotado and myself had had a misunderstanding, relative to our work in the Alano Planta-tion at Tairan, and that re-cently we're courting on one girl by the name of Herminia Garcia, and because of that, I harbor grudge on him.

14. Q/ - Can you tell me how did this incident happen?

A/ - On November 29, 1971, at about 7:00 p.m., Alfredo Lacastesantos and myself went to the house of Manuel Martinez, at Tairan Camp, Isabela, this City, pur-portedly to drink tuba. Thereat, I saw Sebastian Ambrosio, Romeo Martinez, Pablito Santos, Alberto Meneng and the late Gre-gorio Dotado. The five were drinking tuba, right in the balcony of the said house. There, we stayed by the staircase. And not long after, Al-berto Meneng and the late Gre-gorio Dotado went downstairs and they headed toward the house of said Meneng at a nearby dis-tance. Immediately then Alfredo Lacastesantos and myself went after Gregorio Dotado, who was on his way home outside of the boundary of the Tairan Planta-tion. We were able then to catch up Gregorio Dotado, who was almost to reach his house. There and then I asked him in chavacano dialect, in this manner: 'VOLVE YA BOS?' and with a bolo hacked the said Dotado on the throat, once. And when he fell on the ground I again hacked him on the forehead, once. After that I turned his body to a prostrated position, because he was facing upward when he fell and there and then too, Alfredo Lacastesantos with a knife slashed the neck of said Gregorio Dotado. There-after, sensing that Gregorio Dotado was already dead, we ran away home to Subaan Tairan, Isabela, this City; and yesterday afternoon (December 6, 1971) I was picked up by the Police for investigation in connection with the said killing.

15. Q/- Are all what you have stated here true and correct?

A/ - Yes, sir.

16. Q/ - Were you forced, intimidated or promised of any reward in giving this statement of yours?

A/ - No, sir.

17. Q/ - Are you willing to swear and sign this statement of yours?

A/ - Yes, sir.

(Sgd) LEONARDO DELOS SANTOS y SAGDI

(Affiant)

Wit. & Int.:

(Sgd) Illegible

SUBSCRIBED AND SWORN TO BEFORE ME this 7th day of December, 1971, Isabela, Basilan City, Philippines.

(Sgd.) RUBEN M. RAMOS

City Clerk of Court"

(pp. 13-16, Rollo)

On December 9, 1971, appellant executed an affidavit repudiating his extrajudicial confession. The lower court, however, ruled that the extrajudicial confession of appellant was freely and voluntarily executed and appellant was found guilty of the crime charged.

In seeking the reversal of the decision rendered against him, appellant herein raised the sole issue that:

"The lower court erred in having convicted defendant-appellant solely on the strength of Exhibit 'D' the alleged confession when the same was obtained thru violence, threat and intimidation and when the contents thereof were belied by the very evidence of the prosecution." (Brief of Defendant-Appellant, p. 47, Rollo)

Appellant maintains that his confession Exhibit "D" is inadmissible for having been obtained thru violence, threat and intimidation. He avers that in the evening of December 6, 1971, after Pat. Conrado Francisco had brought him to the police station for questioning, two men from the Detective Department investigated him; that when he denied any participation in the killing of the deceased, the two men boxed him, hitting him in the left eyebrow and in the mouth and they also kicked the left side of his body while he was in a squatting position; that when he was brought before the Clerk of Court of the City Court of Basilan on December 7, 1971 to subscribe under oath his confession, he signed Exhibit "D" because of threat made by the policeman who escorted him that he will again be maltreated if he refuses to do so.

It is significant to consider that Exhibit "D" was taken on December 7, 1971 by Pat. Conrado Francisco while the alleged maltreatment was done in the evening of December 6, 1971. It is unbelievable that the alleged maltreatment made by the two policemen was what induced appellant to admit the crime the following day. Ordinarily, confessions executed through intimidation or maltreatment are obtained during or immediately after the supposed maltreatment. In the instant case, appellant alleges that in spite of the alleged manhandling, he never admitted anything that evening and the two policemen desisted from further harming him. However, when investigated the following day (December 7, 1971) by police detective Conrado Francisco, appellant readily confessed his participation in the killing of Gregorio Dotado. In fact, during the cross-examination, appellant expressly acknowledged that Pat. Francisco neither maltreated nor intimidated him during the investigation. Appellant testified thus:

"Q When Conrado Francisco investigated you did he maltreat you?

"A No, sir.

"Q Did Conrado Francisco intimidate you while he was investigating you?

"A No, sir.

"Q Did he tie you?

"A No, sir.

"Q. In other words Conrado Francisco simply conducted a very regular investigation without touching your body?

"A Yes, sir." (pp. 308-309, tsn).

Even Ruben Ramos, the Clerk of Court of the City Court of Basilan, testified that when the confession was sworn to before him by the appellant on December 7, 1971, the latter did not complain that he was maltreated and instead admitted that the statements in Exhibit "D" were voluntarily given and signed by appellant. Ramos testified thus:

"Q After the Contents of Exhibit 'D' was interpreted to the affiant Leonardo de los Santos y Sagdi, did he inform you that he refused to sign this statement?

"A No, as a matter of fact I asked him a question whether he was willing to sign it and I investigated him whether he was coerced or intimidated and he said, no, he was willing to sign." (p. 120, tsn).

x x x

"Q Did you ask Leonardo de los Santos whether the statement that he gave appearing on Ex-hibit 'D' was only forced or vexed from him?

"A I asked that question, he said he gave that voluntarily.

"Q Did he complain to you that he was maltreated to give this statement?

"A No, sir." (pp. 121-122, tsn).

A confession is deemed to have been made voluntarily if the accused did not complain to the proper authorities regarding the alleged maltreatment despite the opportunity to do so (*People vs. Page*, 77 SCRA 348). If appellant's confession as contained in Exhibit "D" was voluntary, we have to conclude that Dotado was slain in the manner and for the reason set out in that document. It is needless to say that no one in his right mind would convict himself without compulsion by fabricating a highly self-damaging story and suppressing the truth which would absolve him (*People vs. Carillo*, 77 Phil. 572).

Another factor that militates against the claim of appellant of involuntariness in the execution of Exhibit "D" is the fact that the confession is replete with details that only the confessor could have known. Appellant narrated in his confession that at about 7:00 p.m. on November 29, 1971, the victim was then drinking tuba at the house of Manuel Martinez together with Sebastian Ambrosio, Romeo Martinez, Pablito Santos and Alberto Meneng; that when the victim left the house of Martinez, he and Alfredo Lacastesantos followed the former; that before the victim reached his house, they overtook him; whereupon appellant hacked him with a bolo, first on the throat and when the victim fell on the ground, he again hacked him on the forehead and realizing that the victim was already dead, they ran away. The post-mortem examination of the body of the deceased conducted by Sanitary Inspector Hilario Guerrero showed that the wounds sustained by the victim were located exactly in the places where appellant in his affidavit stated that he inflicted them upon the victim, thus:

"1. Hacked wound, extensive, multiple, neck, almost severed.

2. Hacked wound, eyebrow, bilateral.

"Cause of Death.

Due to multiple hacked wounds." (Exhibit A, p. 1, Original Exhibit)

Indeed, the confession at bar being complete with details that only the appellant could have known, therefore, show that the confession was executed voluntarily (*People vs. Jimenez*, 105 SCRA 721).

Considering the foregoing circumstances, this Court is of the view that appellant's admission voluntarily made and confirmed by him in open court during his trial, renders worthless the challenge now interposed by him to the admissibility of his sworn statement, Exhibit "D". It is significant to note that the extrajudicial confession, Exhibit "D", was obtained and offered in evidence before the 1973 Constitution took effect. In fact, the decision appealed from was rendered by the trial court on May 24, 1972. Consequently, appellant's extrajudicial confession, Exhibit "D", is admissible in evidence although the requisites in Section 20 of Article IV of the 1973 Constitution which declares inadmissible a confession obtained from a person under investigation for an offense who has not been informed of his right to remain silent and to counsel were not observed, since that portion of the 1973 constitutional mandate should be given prospective and not retrospective effect and no law gave the accused the right to be so informed before the effectivity of the 1973 Constitution (*Magtoto vs. Manguera*, 63 SCRA 4). Furthermore, the declaration of an accused expressly acknowledging his guilt of the offense charged, may be given in evidence against him (Sec. 29, Rule 130). It has been held that a confession

constitutes evidence of high order and the presumption is that no sane person would deliberately confess the commission of a crime unless prompted to do so by truth and conscience (U.S. vs. De los Santos, 24 Phil. 329).

Appellant likewise impugns the truth of the confessions as regards the house where the deceased was last seen. Appellant alleges that according to the affidavit of Alberto (Roberto) Meneng which was attached to the information filed by the prosecuting fiscal, Meneng was the companion of the deceased in the evening of November 29, 1971 when they went to the house of Salvador Martinez to drink tuba (p. 4, Original Record). While in the confession, it was stated that the deceased just before his death was in the house of one Manuel Martinez. This argument deserves scant consideration not only because of its immateriality but also because the supposed witness Alberto (Roberto) Meneng was never presented during the trial as witness either for the prosecution or the defense and his affidavit was also not submitted as evidence.

Appellant's extrajudicial confession was corroborated by the evidence on the corpus delicti, the post-mortem examination (Exhibit A) which suffices for conviction (Section 3, Rule 133).

WHEREFORE, the judgment of the trial court is hereby AFFIRMED with the sole modification that appellant is ordered to indemnify the heirs of Gregorio Dotado in the amount of P30,000.00.

SO ORDERED.

Fernan, (Chairman), Gutierrez, Jr., Paras, Padilla, and Cortes, JJ., concur.

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