

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELPIDIO LEAL Y MARON ACCUSED-APPELLANT.

Ponente: DIAMANTE, J.

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DIAMANTE, J.:

Assailed before this Court is the July 25, 2013 Decision[1] of the Makati City Regional Trial Court (RTC), Branch 145, in Criminal Case No. 12-386, finding accused-appellant Elpidio Leal y Maron ("Leal" for brevity) guilty beyond reasonable doubt of Homicide under Article 249 of the Revised Penal Code (RPC).

The facts are as follows:

An Information dated April 10, 2012[2] for Homicide under Article 249 of the RPC was filed against accused-appellant Leal. The Information reads:

"On the 5[th] day of April 2012, in the city of Makati, the Philippines (sic), accused with intent to kill did, then and there willfully, unlawfully and feloniously stab Bernardo C. Andulte on the neck thereby inflicting upon Andulte mortal wounds which directly caused his death.

CONTRARY TO LAW."

When arraigned, accused-appellant Leal, then assisted by his counsel, Atty. Michael Llaguno of the Public Attorney's Office (PAO), pleaded not guilty.[3] Trial on the merits thereafter followed.

The evidence for the prosecution consisted of the testimonies of Bernadette Andulte, Dr. Voltaire P. Nulud and PO3 (now SPO2) Alejandro Devalid. In the Brief[4] for the plaintiff-appellee, the Office of Solicitor General (OSG) summarized the facts as follows:

"On April 5, 2012 at around 5:00 in the morning, the dead body of Bernardo C. Andulte was found in the construction site at No. 2145 Chino Roces Avenue, Barangay Pio Del Pilar, Makati City. The victim was found about five (5) steps from the sleeping barracks he shared with appellant, with multiple stab wounds to the neck.

While on duty, PO3 Alejandro Devalid ("PO3 Devalid), a police officer of the Makati City Police Station, received a report of the said dead body and thus, he proceeded to the crime scene and conducted his investigation.

Upon arriving thereat, PO3 Devalid interviewed appellant who narrated that he just saw the victim after their drinking session. PO3 Devalid likewise interviewed Allen Yanson, the construction site's security guard on duty at that time, Chuck Arreglo, another construction worker, and Jovit Dayon. Jovit Dayon told PO3 Devalid that the victim and appellant were engaged in a heated argument during a drinking session. During the course of the said misunderstanding, appellant kicked the victim on the face. The body of the victim was found thirty (30) to forty-five (45) minutes thereafter.

On the same day, or on August 5, 2012, the appellant and the witnesses were invited to the precinct for further investigation. After finding reasonable ground to conclude that appellant is the perpetrator of the crime, he was placed under arrest and detained at the detention cell of the Makati City Police.

Meanwhile, the victim's aunt, Bernadette Andulte ("Bernadette"), was informed of the death of his nephew. The following day, or on April 6, 2012, at about 10:00 in the morning, Bernadette went to the police station and met PO3 Devalid who asked several questions regarding her relationship with the victim. She was likewise asked to execute an affidavit, and subsequently thereafter, she asked permission from PO3 Devalid to see the suspected perpetrator of the crime.

Bernadette was then allowed to speak with appellant in the detention area. Speaking in the vernacular, she immediately asked appellant what happened. Appellant initially responded that he does not know. However, upon Bernadette's further questioning, appellant admitted that he, indeed, committed the crime. His exact words were: "Sorry po, kasi po naka drugs po kami, patawarin ninyo po ako."

Upon hearing the admission of appellant, Bernadette immediately called PO3 Devalid, who then accompanied her to the detention area. PO3 Devalid informed appellant of his constitutional rights to have his own counsel and the right to remain silent. Appellant, nonetheless, repeated his admission to Bernadette within earshot of PO3 Devalid."^[5]

After the prosecution presented its witnesses and its Formal Offer of Exhibits^[6] to which the defense filed a Comment and Objection^[7] thereto, the defense filed a Demurrer to Evidence on February 8, 2013,^[8] which the court a quo denied in its Resolution dated February 27, 2013.^[9] Thereafter, the defense was directed to adduce its evidence.

The evidence for the defense consisted of the testimonies of Jonalyn Leal and accused-appellant himself. The defense' version of the events, as summarized in its Brief,^[10] is as follows:

" xxx xxx

8. ELPIDIO LEAL knew the victim because he was his co-worker and they shared the same space in the construction barracks where they both worked.

He last saw the victim on April 5, 2012 at 4:00 o'clock in the afternoon when the latter was talking with one Jovit Dayon who was then trying to borrow money from the former. Jovit does not work there. He then left the duo and went to the canteen to buy food.

Thereafter, he went to play basketball and then cara y cruz which he played up to 4:00 o'clock in the morning of the next day. When he went back to the barracks, he was surprised and shocked to see the bloodied and lifeless body of the victim laid on the pavement face up. He then left the barracks and initially looked for the guard. However, the guard was sleeping so he decided to approach a bantay bayan officer, reported the death of the victim and requested the said officer to call a police. He also told the bantay bayan officer that he saw Jovit Dayon and two (2) unknown persons near the body of the victim but when the bantay bayan officer verified them, they were no longer there.

Police Investigator Devalid came over to investigate and invited him for questioning which he readily accepted without hesitation. At the police station, he did not tell the police of the identity of some possible suspect in the killing of the victim because he was confused and was not on himself. He also did not tell about Jovit Dayon although he saw him during the investigation. SPO2 Devalid asked him if he killed the victim which he denied. He also denied having admitted the alleged killing to Bernadette Andulte, the victim's aunt.

SPO2 Devalid brought him inside a room, ordered him to lie down on his face and body facing the ground and with both hands placed on his back. Thereafter, SPO2 Devalid handcuffed his hands and began to hit the back portion of his head using a rattan stick of about three (3) feet in length, while asking him to confess and own the killing of Bernardo. He was repeatedly hit four (4) times. He did not admit the killing despite such ordeal. Hence, he was brought back to the detention cell.

9. JONALYN LEAL is the accused's sister-in-law. Their family learned about the case of the accused and his

detention in jail because of the letter of the accused sent to their province asking for help. Thus, on the last week of May 2012, she together with her husband and elder brother of the accused visited the latter inside the Makati City Jail.

Upon seeing the accused, she asked him what happened and the accused said that he is being held as a suspect in the killing of his co-worker Bernardo Andulte. Upon her repeated

questionings, the accused cryingly declared to her that he is innocent of the charge; and that somebody did it and have already escaped. She also noticed that the accused's forearms just below the wrists were swollen. She asked about it and the accused relayed to her that he was handcuffed by the police; made to lie down and was hit on the back of his head. She admitted that without the knowledge of the accused she made a suggestion to Bernadette Andulte if they could talk. Her purpose in offering to talk with Bernadette was just to buy peace and avoid disturbance."[11]

On July 25, 2013, the court a quo promulgated its Decision[12] convicting accused-appellant Leal of the crime charged, the dispositive portion of which reads:

"WHEREFORE, finding the accused ELPIDIO LEAL y MARON guilty beyond reasonable doubt of ONE COUNT of HOMICIDE, he is sentenced to suffer an indeterminate penalty of imprisonment for 10 years of prison mayor as minimum to 17 years of reclusion temporal as maximum; and to pay to the heirs of the late Bermardo Andulte the amounts of P83,000.00, as actual damages, P50,000.00 as civil indemnity, P50,000.00 as moral damages, all of which shall bear six (6%) per cent interest per annum reckoned from finality of this judgment until fully paid.

The accused is also ordered to pay the costs.

SO ORDERED."[13]

Accused-appellant filed a Notice of Appeal[14] and Application for Bail Pending Appeal on July 29 and July 30, 2013, respectively.[15] The prosecution thereafter, filed an Opposition to the said Application for Bail on August 13, 2013.[16] On even date, the court a quo issued an Omnibus Order[17] giving due course to the Notice of Appeal but denying accused-appellant's Application for Bail Pending Appeal. In his Brief, accused-appellant Leal submitted the following assignment of errors:

ASSIGNMENT OF ERRORS

ITHE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE THE IDENTITY OF THE ASSAILANT AS WELL AS ACCUSED-APPELANT'S GUILT BEYOND REASONABLE DOUBT.

IITHE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT ON THE BASIS OF INSUFFICIENT CIRCUMSTANTIAL EVIDENCE.

IIITHE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN HIS FAVOR.[18]

The appeal is impressed with merit.

Article 249 of the Revised Penal Code (RPC) defines and punishes the crime of homicide, viz.:

Art. 249. Homicide. — Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by reclusion temporal.

The elements of homicide are as follows: 1) a person was killed; 2) the accused killed him without any justifying circumstance; 3) the accused had the intention to kill, which is presumed; and 4) the killing was not attended by any of the qualifying circumstances of murder, or by that of parricide or infanticide.[19]

Insofar as the first element of homicide is concerned, it is settled that a person, identified as Bernardo Andulte, was killed on April 5, 2012.[20] With respect to the other elements of the crime, the court a quo concluded that the same was proven in the case at bench, relying mainly on the following pieces of circumstantial evidence in convicting the accused, thus:

"First, the attitude and actuations of the accused towards the occurrence of the crime. He admitted that he and the victim were then sharing a common room in a construction barracks, yet he professed total lack of knowledge on who killed and at what time his companion Bernardo Andulte was killed;

Second, that after the discovery of the killing he did not cry, shout, tremble nor ran away;

Third, after his alleged discovery of the dead body of Bernardo Andulte, the accused did not report at once to the Guard-On-Duty Allen Yanson. Instead, he reported to a Bantay-Bayan Officer;

Fourth, the supposed act of the accused in admitting the authorship of the killing made before Bernadette Andulte, the aunt of the victim, and he even asked for forgiveness from her;

Fifth, the act of the accused in reiterating his admission of owning the killing of the victim Bernardo Andulte before the Police Investigator Devalid and in the presence of Bernadette Andulte;

Sixth, the act of the accused in attempting to settle the case during the progress of the trial by giving a piece of paper to Bernadette Andulte which paper contains the phone number of his sister-in-law, Jona Leal, and urging Bernadette to call her for possible talk of settlement;

Seventh, the offer to talk for settlement made by accused's sister-in-law, Jona Leal, which was not accepted by Bernadette Andulte." [21]

At the outset, it may be well to emphasize that direct evidence is not the sole means of establishing guilt beyond reasonable doubt. Established facts that form a chain of circumstances can lead the mind intuitively or impel a conscious process of reasoning towards a conviction. Indeed, rules on evidence and principles in jurisprudence have long recognized that the accused may be convicted through circumstantial evidence.[22]

Conviction based on circumstantial evidence needs the concurrence of the following requisites: (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.[23] These circumstances must be consistent with the hypothesis that the accused is guilty of the crime sought to be established and can lead to no rational assumption that may be congruent with the innocence of the accused.[24] The case of *People of the Philippines vs. Arnel Bernal*[25] is instructive on the matter, thus:

"xxx xxx Circumstantial as it is, conviction based thereon can be upheld, provided the circumstances proven constitute an unbroken chain which leads to one fair and reasonable conclusion that points to accused-appellant, to the exclusion of all others, as the guilty person. xxx xxx Circumstantial evidence is of a nature identical to direct evidence. It is equally direct evidence of minor facts of such a nature that the mind is led, intuitively or by a conscious process of reasoning, to a conclusion from which some other fact may be inferred. No greater degree of certainty is required when the evidence is circumstantial than when it is direct. In either case, what is required is that there be proof beyond reasonable doubt that a crime was committed and that accused-appellant committed it. xxx xxx" [Emphasis supplied]

Considering that what is required is that there be proof beyond reasonable doubt, the prosecution, therefore, is

burdened to prove the essential events which constitute a compact mass of circumstantial evidence, and the proof of each being confirmed by the proof of the other, and all without exception leading by mutual support to but one conclusion: the guilt of accused for the offense charged.[26] Thus, circumstantial evidence which merely arouses suspicion or gives room for conjecture is insufficient to convict an accused.[27]

At this juncture, We opine that the pieces of circumstantial evidence taken against the accused-appellant acquired significance chiefly because the same were taken together with accused-appellant's confession. To Our appreciation, the pattern of the tapestry, which the prosecution would want Us to see was bound by only a single thread — the alleged confession of the accused-appellant.[28] Having said that, We deem it wise to re-evaluate the pieces of evidence presented by the prosecution, among which is the testimonial evidence of witnesses Bernadette C. Andulte ("Bernadette" for brevity) and Police Investigator Devalid ("Devalid" for brevity) which were offered to prove the alleged extrajudicial confession of the accused-appellant.

Notably, the admissibility of accused-appellant's alleged declaration acknowledging his guilt had been put in issue in the present case. This Court, however, sees no need to delve any further into the issue of admissibility primarily because pursuant to Rule 130, Section 26 of the Rules of Court, a confession to a private person is admissible in evidence against accused-appellant. Thus, We agree with the court a quo's finding that the supposed confession of accused-appellant to Bernadette Andulte was admissible in evidence.[29]

Given the above disquisition, We are, thus, here concerned with the evidentiary value accorded by the court a quo to the testimonies of prosecution witnesses to whom the alleged confession was made which, to Us, must be anchored on whether the very fact of confession was conclusively established and whether the circumstances surrounding the taking of the supposed confession was duly considered. As such, the issue before Us is clearly not of admissibility, but of weight — evidentiary merit or probative value — to be given the evidence presented.[30]

A judicious scrutiny of the evidence on record led this Court to hold that the court a quo gravely erred in giving weight to the testimonies of the prosecution witnesses and finding adequate the totality of the circumstantial evidence which warranted accused-appellant's conviction.

Significantly, prosecution witness Bernadette categorically testified during the direct examination that accused-appellant confessed to her that he, indeed, committed the crime. Thus:

"xxx xxx

Q:

Did you see the suspect or not?

A:

I did.

Q:

Where was the suspect at that time?

A:

He was detained in the same building.

Q:

Did you know the accused in this case Elpidio Leal?

A:

I just met him on that day when I was at the precinct.[31]

xxx xxx

Q:

When you saw him, what transpired?

A:

I saw him an older man. My nephew is only 22. I was surprised because he looked older than my nephew. I asked him questions, why, what happened?

Q:

And what was his answer?

A:

I asked him, why, what did you do, what happened, you live on the same room, what happened?

Q:

What was his response to you?

A:

Suddenly he admitted in tears. He was saying sorry and he was asking for forgiveness because they were drinking with drug (sic).

Q:

He was saying sorry and asking forgiveness from whom?

A:

He admitted that he killed my nephew and he was so sorry and asking for forgiveness.

Q:

Forgiveness from whom?

A:

He was asking for forgiveness because due to drinking and drug, he don't (sic) know what happened because of drinking and drug. Somebody gave them drug.

Q:

Did you tell him what is your relation with Bernardo Andulte?

A:

I told him that I am the aunt of Bernardo.

Q:

After that admission, what else happened, if any?

A:

I told PO3 De Valle that he was admitting (sic) killing my nephew.

Q:

How far was PO3 Devalid from where were you when the accused made admission to you?

A:

Police P03 Devalid was in the office and the detention area is about from here up to the lobby area, beyond 15 meters away.

Q:

Are you saying that PO3 Devalid was in another room?

A:

Yes, sir.

Q:

Did he go with you?

A:

He went with me.

Q:

What happened?

A:

When PO3 Devalid came with me, Elpidio Leal admitted to PO3 Devalid that he killed my nephew.[32]
[Emphasis and underscoring supplied]

Prosecution witness Bernadette Andulte further stated when asked clarificatory questions:

"xxx xxx

Q:

You spoke to the suspect?

A:

Yes, your Honor.

Q:

What was the subject of your conversation?

A:

Right away I asked him what happened.

Q:

You spoke to the suspect in English?

A:

In Tagalog, your Honor.

Q:

Exactly, what was your word on the suspect?

A:

"Sabi ko po, ano ang nangyari, magkasama naman kayo sa kwarto, mabait naman ang pamangkin ko, hindi ba? Sabi niya po, hindi daw niya alam. Sabi ko rin, ano ba talaga ang nangyari sabihin muna ang katotohanan. Sabi niya po, hindi daw siya. Okay, kung hindi ikaw, may maituturo ka bang iba kung sino ang gumawa? Wala daw siya alam. Kasi ikaw ang [huli nilang nakitang] kainuman nila at mayroon ka pang kasama at nag argue pa kayo sa isa't-isa. Sabi niya, hindi daw niya alam.

Q:

What did you do?

A:

I keep asking him, okay, even if you deny or not (sic), mapipindown ka pa rin ng pulis kasi ikaw ang nakita nila kasama ng pamangkin ko na kainuman at inawat ka pa ng isang kasamahan ninyo sa trabaho. Biernes Santo ngayon ang sabi ko. Ganitong panahon ang panginoon na tortured, crucified, nagpatawad pa rin bago siya namatay. Patatawarin kita anak alang-alang sa panginoon. Sabi ko sa kanya, sabihin mo lang ang katotohanan, patatawarin kita, kung ano man maging sentensya mo, matutulungan pa kita, hindi kita [papayagang] makulong habang buhay.

Q:

What was the reaction of the suspect?

A:

May karugtong pa po yun, your Honor. Sabi ko, kung makulong ka habang buhay hindi kita hayaang makulong habang buhay, paikliin natin ang iyong sentensya kung ikaw. Tapos bigla lang po siyang umiyak. Umiyak po siya at umamin, Sorry po hindi ko p (sic) alam ang nangyayari kasi po naginuman po kami at may nagbigay daw po sa kanila ng drugs.

Q:

What was the exact word of the suspect?

A:

Ang sabi po niya, sorry po, opo, ako po ang gumawa pero hindi ko po alam ang nangyayari kasi po nagiinuman kami at may nagbigay sa amin ng drugs. xxx xxx" [33][Emphasis supplied]

On rebuttal, prosecution witness Bernadette Andulte stated:

`"xxx xxx

Q:

Both in your testimony on evidence in chief and rebuttal you maintained that the accused confessed to have killed your nephew, can you still recall what was the exact word of the accused when he was talking to you allegedly admitting the killing of your nephew?

A:

Sorry po, kasi po naka drugs po kami, patawarin ninyo po ako at sinabi po na may nagbigay po sa kanila ng drugs. xxx xxx" [34][Emphasis supplied]

Relevant to Bernadette's statements is the testimony of Police Investigator Devalid which provides:

"xxx xxx

Q:

How did you conduct your investigation?

A:

I was just listening to the conversation with the victim's aunt Bernadette Andulte.

Q:

Mr. Witness, you investigated the accused?

A:

Yes, sir.

Q:

How did you conduct your investigation?

A:

I informed him of his constitutional rights that he has the right to secure a counsel and the right to remain silent.

Q:

You informed of his right of (sic) counsel?

A:

Yes, sir, right to have his own counsel.

Q:

Was there a counsel at that time when he made that admission?

A:

He made that admission with the aunt's victim, sir.

Q:

In the absence of counsel?

A:

No counsel.

Q:

You said a while ago that you heard a conversation?

A:

Yes, sir.

Q:

Prior to that, did the witness Bernadette Andulte approach you before going to the accused?

A:

Yes, sir.

Q:

Did she approach you first?

A:

Yes, sir.

Q:

Did she ask your permission to have a conversation with the accused?

A:

Yes, sir.

Q:

And you consented?

A:

Yes, sir.

Q:

You gave your permission?

A:

Yes, sir.

Q:

And you are saying now that you heard the accused admitted because of the question asked by Ms. Bernadette?

A:

Yes, sir.

Q:

After you heard that, what did you do?

A:

Well, I informed again the suspect about his right to have his own counsel and still he verbally admitted to Ms. Bernadette Andulte about the crime he committed.

Q:

That was the only right you informed him at that time?

A:

Yes, sir, because at that time I was preparing my document and I was about to bring him to the (interrupted) xxx xxx"[35]

xxx xxx

Q:

You stated in your affidavit of arrest that the suspect voluntarily admitted to this court in the presence of Bernardo's aunt that he was the one who stabbed the victim, you asked him a question?

A:

The question asked by Ms. Andulte was repeatedly asked by the undersigned (sic).

Q:

You repeated it before the accused?

A:

Yes sir, after I informed him about his right.

xxx xxx"[36] [Emphasis supplied]

When asked clarificatory questions, Police Investigator Devalid testified:

"xxx xxx

Q:

You mentioned in your testimony that you overheard a conversation between the aunt of the victim the deceased by the name (sic) Bernadette Andulte and the accused while the accused was already inside the detention cell of the Makati Police, what exactly did you hear as to the question of Bernadette Andulte and the answer of the accused?

A:

I heard Ms. Andulte asked the accused "Bakit mo nagawa yon sa pamangkin ko?"

Q:

What was the answer of the accused?

A:

Dahil po lasing ako at nakagamit ng drugs.

Q:

How far were you when you heard this conversation?

A:

One step away, your Honor.

Q:

What was the tone of the voice of the accused when he was saying that?

A:

Napakahina, your Honor.

Q:

Were there other conversation that you overheard between Bernadette Andulte and the accused aside from that?

A:

No more, your Honor.

Q:

When you overheard that, you also asked the accused, is that what you were saying?

A:

Yes, sir.

Q:

What was your question to the accused after you overheard the supposed admission of the accused to the aunt of the victim?

A:

I asked the accused "kung saan tinago ang ginamit na patalim."

Q:

What was the answer?

A:

"Hindi na daw po niya matandaan.

Q:

Now, as an investigator, did it not occur to your mind to provide the accused with counsel considering that you intend to ask question from the accused at that time while he was already in detention and you were already in the process of investigating the accused?

A:

At that time I was busy also in preparing the documentation and I was about to bring the accused to the PAO lawyer for his counsel. xxx xxx"[37] [Emphasis supplied]

To Our observation, there is an apparent contradiction between the testimonies of the aforesaid prosecution witnesses. As can be gleaned from the foregoing, according to Police Investigator Devalid, he was just one step away from witness Bernadette and accused-appellant when he overheard their conversation. In the testimony of witness Bernadette, however, she declared that at the time the accused-appellant made his confession to her, Police Investigator Devalid was in the office which is beyond fifteen (15) meters away from the detention area. Furthermore, a close look at Devalid's testimony would in fact show that there was an inconsistency as regards the question he raised to the accused-appellant. Police Investigator Devalid mentioned that the query he asked the

accused-appellant was: "Kung saan tinago ang ginamit na patalim." In contrast, he declared that his question to the accused-appellant was the very same query posed by Bernadette.

In addition, this Court finds it rather strange that accused-appellant's supposed confession was bereft of details which could have been known and supplied only by the accused-appellant himself. Except for the statement "Sorry po, opo, ako po ang gumawa pero hindi ko po alam ang nangyayari kasi po nagiinuman kami at may nagbigay sa amin ng drugs," no other details were allegedly provided by the accused-appellant which would describe the unfortunate incident, or would at least, convince Us that the same could not have been easily concocted or dictated by some other persons. Thus, with the lack of specificity of details anent the commission of the crime, as well as, material facts stated in accused-appellant's confession, this Court cannot help but doubt the integrity and voluntariness of accused-appellant's alleged confession.[38]

Also, even more baffling is the fact that the said oral confession was not reduced to writing and signed by the accused-appellant. While it is true that oral confessions are admissible, a credible evidence that the oral confession was really made is necessary.[39] Following this legal precept, although accused-appellant allegedly made his confession to Bernadette, We believe that such oral confession should have been reduced to writing and the contents thereof should have been read to the accused-appellant. This principle holds true especially in this case in which the police investigator heard the alleged confession and propounded the very same question asked by the witness to whom the confession was made. This adds weight to the confession and helps convince Us that the confession was really made or the same was voluntarily executed.

At this point, the pertinent pronouncement in the case of *People of the Philippines vs. Herminiano Satorre @ Emiano Satorre*,[40] is worthy to reproduce, thus:

"xxx xxx There is no question as to the admissibility of appellant's alleged oral extrajudicial confession. Indeed, as far as admissibility is concerned, Rule 130, Section 33 of the Rules of Court makes no distinction whether the confession is judicial or extrajudicial.

The rationale for the admissibility of a confession is that if it is made freely and voluntarily, a confession constitutes evidence of a high order since it is supported by the strong presumption that no sane person or one of normal mind will deliberately and knowingly confess himself to be the perpetrator of a crime, unless prompted by truth and conscience.

Accordingly, the basic test for the validity of a confession is — was it voluntarily and freely made. The term "voluntary" means that the accused speaks of his free will and accord, without inducement of any kind, and with a full and complete knowledge of the nature and consequences of the confession, and when the speaking is so free from influences affecting the will of the accused, at the time the confession was made, that it renders it admissible in evidence against him. Plainly, the admissibility of a confession in evidence hinges on its voluntariness.

The voluntariness of a confession may be inferred from its language such that if, upon its face, the confession exhibits no suspicious circumstances tending to cast doubt upon its integrity, it being replete with details — which could only be supplied by the accused — reflecting spontaneity and coherence, it may be considered voluntary. The problem with appraising voluntariness occurs when the confession is an oral extrajudicial confession because the proof of voluntariness cannot be inferred from the testimony of a witness who allegedly heard the confessor since there is no written proof that such confession was voluntarily made. Neither can the confessor be appraised by the court since, precisely, it was made outside the judicial proceeding. The problem posed therefore by an oral extrajudicial confession is not only the admissibility of the testimony asserting or certifying that such confession was indeed made, but more significantly whether it was made voluntarily.

On the question of whether a confession is made voluntarily, the age, character, and circumstances prevailing

at the time it was made must be considered. Much depends upon the situation and surroundings of the accused. This is the position taken by the courts, whatever the theory of exclusion of incriminating statements may be. The intelligence of the accused or want of it must also be taken into account. It must be shown that the defendant realized the import of his act. xxx xxx

At any rate, an extrajudicial confession forms but a prima facie case against the party by whom it is made. Such confessions are not conclusive proof of that which they state; it may be proved that they were uttered in ignorance, or levity, or mistake; and hence, they are, at best, to be regarded as only cumulative proof which affords but a precarious support and on which, when uncorroborated, a verdict cannot be permitted to rest.

Main prosecution witness Castañares testified that after appellant's alleged oral confession, she brought the latter to the office of the police at the Municipal Hall of Carcar, Cebu. At the police station, Castañares was investigated, after which she executed her sworn statement. Also at the police station, appellant allegedly admitted before policemen that he killed Pantilgan. His statement was not taken nor was his confession reduced into writing. This circumstance alone casts some doubt on the prosecution's account that appellant freely and voluntarily confessed killing Pantilgan. It raises questions not only as to the voluntariness of the alleged confession, but also on whether appellant indeed made an oral confession. xxx xxx

xxx xx To be sure, a confession is not required to be in any particular form. It may be oral or written, formal or informal in character. It may be recorded on video tape, sound motion pictures, or tape. However, while not required to be in writing to be admissible in evidence, it is advisable, if not otherwise recorded by video tape or other means, to reduce the confession to writing. This adds weight to the confession and helps convince the court that it was freely and voluntarily made. If possible the confession, after being reduced to writing, should be read to the defendant, have it read by defendant, have him sign it, and have it attested by witnesses. xxx xxx" [Emphasis supplied]

Considering that accused-appellant's supposed confession demonstrated signs of suspicious circumstances which allowed this Court to entertain doubt on the integrity of the same, We are inclined to hold that the court a quo committed an error in giving weight upon the alleged confession. But to clarify, this Court is not ruling upon the question of whether accused-appellant's confession was extracted through force and intimidation, as accused-appellant is claiming, considering that he failed to adduce evidence in support of his contention. What We are saying is that given the suspicious circumstances surrounding the alleged confession, this Court cannot affirm the court a quo's appreciation of the prosecution witnesses' testimonies anent the said confession.

Moreover, contrary to the finding of the court a quo that nowhere in the testimony of the accused-appellant did he contradict nor categorically deny the assertion of Bernadette Andulte that when they met at the PNP detention cell, accused-appellant asked forgiveness from the former, a perusal of the records shows that accused-appellant denied having voluntarily confessed to Bernadette, thus:

"xxx xxx

Q:

Now, were you present when Ms. Andulte testified that you admitted to her the killing of the victim in this case?

A:

Yes, sir.

A:

Yes, sir.(sic)

Q:

What can you say about her testimony?

A:

I told her that I have no participation in the killing of his (sic) nephew.

Q:

Now, were you also present when PO2 Devalid testified that he was with the distance when you were conversing with Bernadette Andulte?

A:

Yes, sir, I was present.

Q:

What can you say about the testimony of PO2 Devalid?

A:

I do not know anything about it, sir.

xxx xxx"[41] [Emphasis supplied]

From the above, it is quite evident that the court a quo's premise that the accused-appellant did not deny Bernadette Andulte's assertion that accused-appellant asked forgiveness from the latter is erroneous.

In the case of *People of the Philippines vs. Jerry Rapeza y Francisco*,^[42] the High Court emphasized that courts are slow to accept extrajudicial confessions when they are subsequently disputed unless they are corroborated. There must be such corroboration so that when considered in connection with the confession, it will show the guilt of accused beyond reasonable doubt. Here, We believe that the accused-appellant's supposed confession was not sufficiently corroborated. The remaining circumstantial evidence presented by the prosecution was sorely insufficient to prove accused-appellant's guilt beyond reasonable doubt.^[43]

To stress, accused-appellant's act of trying to settle the case by giving a piece of paper to witness Bernadette containing the phone number of accused-appellant's sister-in-law, Jona Leal, and urging Bernadette to call her for possible talk of settlement cannot be considered by this Court as an implied admission of accused-appellant's guilt. For one, the alleged piece of paper was not presented in court, hence, it cannot be proven that accused-appellant indeed passed upon such piece of paper. For another, such actuation, is not, per se, determinative of the guilt of accused-appellant considering that it was not clearly shown whether accused-appellant had made said actuation merely as an attempt to avoid the inconvenience of imprisonment or as an admission of guilt.

Concomitantly, the offer to talk for settlement made by accused-appellant's sister-in-law, Jona Leal, which was not accepted by Bernadette Andulte cannot likewise be taken against accused-appellant. While Jona Leal admitted that she offered to settle the civil aspects of the case with Bernadette,^[44] she testified that no one requested her to talk to the latter for possible settlement.^[45] In fact, she mentioned that accused-appellant did not know that she was going to make a talk of settlement with Bernadette.^[46] The case of *People of the Philippines vs. Larry Erguiza*^[47] finds importance, thus:

"xxx xxx An offer of compromise from an unauthorized person cannot amount to an admission of the party himself. Although the Court has held in some cases that an attempt of the parents of the accused to settle the

case is an implied admission of guilt, we believe that the better rule is that for a compromise to amount to an implied admission of guilt, the accused should have been present or at least authorized the proposed compromise. Moreover, it has been held that where the accused was not present at the time the offer for monetary consideration was made, such offer of compromise would not save the day for the prosecution. xxx xxx" [Emphasis supplied]

Truly, no proof was shown that accused-appellant was present or at least had authorized the offer of compromise made by Jona Leal. As a matter of fact, Bernadette even testified that she did not see accused-appellant at the time said offer was made.[48] Given that no evidence was shown that accused-appellant had, at least, authorized the offer of compromise made by Jona Leal, We cannot say that the said compromise or offer of settlement amounted to an implied admission of accused-appellant's guilt.

The court a quo likewise pointed to the following circumstantial evidence in support of accused-appellant's conviction: a) the attitude and actuations of the accused towards the occurrence of the crime. He admitted that he and the victim were then sharing a common room in a construction barracks, yet he professed total lack of knowledge on who killed and at what time his companion Bernardo Andulte was killed; b) after the discovery of the killing accused-appellant did not cry, shout, tremble nor ran away; and, c) after the discovery of the dead body of Bernardo Andulte, the accused did not report at once to the Guard-On-Duty Allen Yanson. Instead, he reported to a Bantay-Bayan Officer.

In the case of *People of the Philippines vs. Salvador Erni y Rogacion*,[49] the High Court held that additional safeguards are provided by the rules to help ensure the probity of circumstantial evidence. With that, proof is required to show the presence of multiple circumstances, at least two, which would be incompatible with any rational hypothesis except that of the guilt of the accused.

In the case at bench, We do not find the aforesaid circumstances enumerated by the court a quo as sufficient to establish the guilt of accused-appellant. To begin with, the alleged "unusual" behavior of accused-appellant is not a conclusive indicia of accused-appellant's guilt. As jurisprudentially settled, the reaction of a person to different situations, or that of different persons to the same situation, is not invariable nor predictable.[50] Thus, We cannot say that there is a clear-cut standard form of behavior in a particular circumstance, especially so, when confronted with a shocking experience for indeed, there is no typical reaction to a sudden occurrence.[51] Furthermore, We note that while accused-appellant did not deny his presence at or near the scene of the crime, the mere presence of accused-appellant at the locus criminis cannot be solely interpreted to mean that he committed the killing.[52]

As to accused-appellant's total lack of knowledge on who killed Bernardo despite the fact that the two shared a common room in the construction barracks cannot also be used as a badge of guilt considering that the prosecution never established that the accused-appellant and the victim were at the same room at the time the unfortunate incident occurred.

We likewise point out that while witness Devalid testified that his basis in concluding that it was accused-appellant who stabbed the victim was the interview he conducted with Chuck Arreglo, Allen Yanson and Jovit Dayon,[53] this Court cannot accept his conclusion considering that the said persons were not presented in court and he had no personal knowledge of the circumstances relayed to him by these persons. Hearsay rule bars the testimony of a witness who merely recites what someone else has told him.[54] Given that, the information that accused-appellant and Bernardo were drinking and later engaged in a heated argument cannot be believed by this Court.

In sum, the prosecution failed to establish an unbroken chain of circumstances which would make Us conclude reasonably and positively that the accused-appellant is indeed the guilty person.[55] As a corollary to the

constitutional precept that the accused is presumed innocent until the contrary is proved, a conviction based on circumstantial evidence must exclude each and every hypothesis consistent with his innocence.[56] To Us, the circumstances laid down failed to convince Us with moral certainty that accused-appellant is guilty.

Even if it can also be argued that a strong suspicion of accused-appellant's guilt was established, We reiterate that such quantum of evidence is not sufficient on which to anchor a judgment of conviction.[57] Courts do not rely on circumstantial evidence that merely arouses suspicion or conjecture. As discussed, for circumstantial evidence to lead to conviction, it must do more than just raise the mere possibility or even probability of guilt. It must engender moral certainty.[58]

To borrow the words of the High Court in the case of *People of the Philippines vs. Abe Valdez y dela Cruz*,[59] this Court, in acquitting accused-appellant, is not saying that he is lily-white, or pure as driven snow. Rather, We are declaring his innocence because the prosecution's evidence failed to show his guilt beyond reasonable doubt. The basis of the acquittal is reasonable doubt, which simply means that the evidence of the prosecution was not sufficient to sustain the guilt of the accused-appellant beyond the point of moral certainty.[60] Thus, where the evidence is insufficient to overcome the presumption of innocence in favor of the accused, then his acquittal must follow in faithful obeisance to the fundamental law.[61]

WHEREFORE, the instant appeal is GRANTED. Accordingly, the July 25, 2013 Decision of the Makati City Regional Trial Court, Branch 145, in Criminal Case No. 12-386 is hereby REVERSED and SET ASIDE. Accused Elpidio Leal y Maron is hereby ACQUITTED on reasonable doubt and ordered immediately RELEASED from detention, unless he is confined for any other lawful cause.

The Director of the New Bilibid Prisons (NBP), Muntinlupa City, is DIRECTED to IMPLEMENT this Decision and to report to this Court the action taken hereon within five (5) days from receipt hereof.

SO ORDERED.

Librea-Leagogo, (Chairperson), and Sadang, JJ., concur.

[1] Records, pp. 428-438.

[2] Id. at 1.

[3] Id. at 27.

[4] Rollo, pp. 70-92.

[5] Id. at 74-76.

[6] Records, pp. 108-109.

[7] See Order of the court a quo dated December 3, 2012, Records, p. 123; Id. At 121-122.

[8] Id. at 133-144.

[9] Id. at 145-146.

[10] Rollo, pp. 38-54.

[11] Id. at 43-45.

[12] Supra, note 1.

- [13] Records, p. 438.
- [14] Id. at 441.
- [15] Id. at 442.
- [16] Id. at 454-455.
- [17] Id. at 460.
- [18] Rollo, pp. 40-41.
- [19] Rey A. Villamor vs. People Of The Philippines, G.R. No. 182156, November 25, 2009.
- [20] Records, p. 431.
- [21] Id. at 432.
- [22] Climaco Amora vs. People of the Philippines, G.R. No. 154466, January 28, 2008.
- [23] People of the Philippines vs. Eduardo Melchor y Cariño, et al., G.R. No. 124301, May 18, 1999.
- [24] People of the Philippines vs. Amer Moyong y Talorong, G.R. Nos. 135413-15, November 15, 2000.
- [25] G.R. Nos. 132791 & 140465-66, September 2, 2002.
- [26] Paraphrasing the High Court in the case of People of the Philippines vs. Cesario Montañez, et al., G.R. No. 148257, March 17, 2004.
- [27] People of the Philippines vs. Austin Williams, et al., G.R. No. 125985, April 20, 2001.
- [28] People of the Philippines vs. Domingo R. Muleta, G.R. No. 130189, June 25, 1999.
- [29] Records, pp. 434-435.
- [30] Gilbert Zalameda vs. People of the Philippines, G.R. No. 183656, September 4, 2009.
- [31] TSN dated June 21, 2012, p. 7; Records, p. 159.
- [32] Id. 8-10; Records, pp. 160-161.
- [33] TSN dated July 31, 2012, pp. 25-27.
- [34] TSN dated May 21, 2013, pp. 21-22.
- [35] TSN dated August 14, 2012, pp. 35-38; Records, pp. 225-228.
- [36] TSN dated August 14, 2012, pp. 40; Id. at 230.
- [37] TSN dated August 14, 2012, pp. 49-51; Records, pp. 239-241.
- [38] People of the Philippines vs. Jerry Rapeza y Francisco, G.R. No. 169431, April 4, 2007.
- [39] People of the Philippines vs. Santiago Ang, G.R. No. L-29980, December 14, 1979.
- [40] G.R. No. 133858, August 12, 2003.
- [41] TSN dated April 16, 2013, pp. 6-7; Records, pp. 319-320.
- [42] G.R. No. 169431, April 4, 2007.

- [43] People of the Philippines vs. Domingo R. Muleta, G.R. No. 130189, June 25, 1999.
- [44] TSN dated April 26, 2013, p. 16; Folder of TSN, unpagged.
- [45] TSN dated April 26, 2013, p. 26; Folder of TSN, unpagged.
- [46] TSN dated April 26, 2013, p. 27; Folder of TSN, unpagged.
- [47] G.R. No. 171348, November 26, 2008.
- [48] TSN dated May 21, 2013, p. 18; Folder of TSN, unpagged.
- [49] G.R. No. 114186, July 12, 1995.
- [50] Id.
- [51] People of the Philippines vs. Arsenio Letigio, et al., G.R. No. 112968, February 13, 1997.
- [52] People of the Philippines vs. Larry Lavapie, et al., G.R. No. 130209, March 14, 2001.
- [53] TSN dated August 14, 2012, pp. 26- 29; Records, pp. 216-219.
- [54] People of the Philippines vs. Decena Masinag vda. de Ramos, G.R. No. 144621, May 9, 2003.
- [55] People of the Philippines vs. Raul Monegro Torre, G.R. No. L-44905, April 25, 1990.
- [56] People of the Philippines vs. Florencio Calica, G.R. No. 139178, April 14, 2004.
- [57] Id.
- [58] People of the Philippines vs. Danilo Asis y Fonperada, et al., G.R. No. 142531, October 15, 2002.
- [59] G.R. No. 129296, September 25, 2000.
- [60] People of the Philippines vs. Noel Santos y Crispino, et al., G.R. No. 127500, June 8, 2000.
- [61] Supra, note 59.

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