

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RAMIRO ALEGRE Y CERDONCILLO, MARIO COMAYAS Y CUDILLAN,
MELECIO CUDILLAN Y ARCILLAS, AND JESUS MEDALLA Y
CUDILLAN, DEFENDAN...**

G.R. No. L-30423. November 07, 1979

Ponente: ANTONIO, J.

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ANTONIO, J.:

This is an automatic review of a decision of the Court of First Instance of Rizal, Seventh judicial District, Branch VII, Pasay City, finding all the accused, namely, Ramiro Alegre y Cerdoncillo, Mario Comayas y Cudillan, Melecio Cudillan y Arcillas and Jesus Medalla y Cudillan, guilty of the crime of Robbery with Homicide and sentencing them as follows:

"WHEREFORE, this Court finds accused Melecio Cudillan, Jesus Medalla, Ramiro Alegre, and Mario Comayas guilty beyond reasonable doubt of ROBBERY WITH HOMICIDE, committed with four (4) aggravating circumstances, not offset by any mitigating circumstance, and hereby sentences all of them to suffer the penalty of death, to be carried out pursuant to the applicable provisions of law, to indemnify jointly and severally, the heirs of Adelina Sajo in the amount of P350,000.00, representing the value of the pieces of jewelry unrecovered, to pay jointly and severally also the heirs of Adelina Sajo the amount of P12,000.00, and to pay the costs.

"With or without appeal, let this case be elevated to the Supreme Court for review, pursuant to law."

During the pendency of this appeal, Melecio Cudillan died on arrival at the New Bilibid Prison Hospital on August 16, 1970, and the case as against the said accused, insofar as his criminal liability is concerned, was dismissed on August 29, 1974. This decision, therefore, is limited to appellants Ramiro Alegre, Mario Comayas and Jesus Medalla.

This case arose from the death of Adelina Sajo y Maravilla, spinster, 57 years old, whose body was found in her bathroom inside her house at the Maravilla compound, Ignacio Street, Pasay City, in the early morning of July 26, 1966. According to the Necropsy Report, she died of asphyxia by manual strangulation, and the time of her death was placed between eighteen to twenty-two hours before 12:30 p.m. of July 26, 1966.

Her bedroom was in "shambles", evidently indicating that it was ransacked. The drawers and several cabinets were open, and some personal garments, handbags and papers were scattered on the floor. No witness saw the commission of the crime. Appellant Ramiro Alegre, who was then living with relatives in one of the rented rooms on the ground floor of the victim's house, was taken to the Pasay City police headquarters for investigation in connection with the case, but was later released that same day for lack of any evidence implicating him in the crime.

During the latter part of July, 1966, Melecio Cudillan was apprehended in Tacloban City, Leyte, in the act of

pawning a bracelet, one of the pieces of jewelry taken from the victim. In explaining how he came into possession of the stolen pieces of jewelry, he admitted his participation in the kill-ing and robbery of Adelina Sajo. This appears in his extrajudicial confession before the police authorities of Tacloban City on July 29, 1966 (Exhibits "F", "F-1" and "F-2"). In this statement, which was written in the English language, Melecio Cudillan implicated a certain "Esok" of Villalon, Calubian, Leyte; Jesus Medalla, of Villahermosa, Calubian, Leyte; Mario Cudillan, also of Villahermosa, Calubian, Leyte; one "Danny" Fernandez, of Balaquid, Cabucgayan, Biliran Subprovince; and one "Rammy", another Leyteño. When brought to Metro Manila and while he was inside the Pasay City police headquarters, Melecio Cudillan again executed an extrajudicial confession (Exhibits "A", "A-1" to "A-6") on July 31, 1966. This was sworn to before the Assistant City Fiscal of Pasay City on August 1, 1966. In this second statement, he narrated in detail the participation in the commission of the crime of Jesus Medalla, "Celso" Fernandez, "Rami" and "Mario". According to said statement, the declarant went near the cell within the Office of the Investigation Section, Secret Service Division, and identified Ramiro Alegre, Jesus Medalla and Mario Comayas as the persons he referred to as Jesus Medalla, "Rami" and "Mario" in his declaration. On the basis of the afore-mentioned extrajudicial confession of Melecio Cudillan, an Information for Robbery with Homicide was filed by the Special Counsel of Pasay City against Celso Fernandez, alias "Esok", Jesus Medalla y Cudillan, Ramiro Alegre y Cerdoncillo, Mario Comayas y Cudillan, Melecio Cudillan y Arcillas, and one "John Doe".

When arraigned on August 10, 1966, Mario Comayas, Melecio Cudillan, Jesus Medalla and Ramiro Alegre entered a plea of not guilty. The prosecution presented nine (9) witnesses. None of them, however, testified on the actual commission of the crime. The recital of facts contained in the decision under review was based principally and mainly on the extrajudicial confessions of Melecio Cudillan. Thus, the details of the planning and the execution of the crime were taken from the "Pasay Sworn Statement" (Exhibits "A", "A-1" to "A-6"). The only evidence, therefore, presented by the prosecution to prove the guilt of appellants are the testimonies of Sgt. Mariano Isla and Hernando Carillo.

The testimony of Sgt. Mariano Isla of the Pasay City police is to the effect that when he was investigating Melecio Cudillan, the latter pointed to Ramiro Alegre, Mario Comayas and Jesus Medalla as his companions in the commission of the crime. According to him, said appellants "just stared at him (Melecio Cudillan) and said nothing."

"Q. In what particular place in the Police Department did you have to confront the accused Melecio Cudillan with the other suspects?

A. In the office of the Secret Service Division.

Q. When you said there was a confrontation between the accused Melecio Cudillan and other suspects whom do you refer to as other suspects?

A. Jesus Medalla, Celso Fernandez, Rosario Dehere and Mario. There was another person Eduardo Comayas. He was also one of those suspects but Melecio Cudillan failed to point to him as his companion.

Q. Who were those persons or suspects pointed to by Melecio Cudillan in the Police Department of Pasay City as his companions?

A. To Jesus Medalla, Ramiro Alegre and Mario Comayas.

Q. When Melecio Cudillan pointed to these persons what did these three persons do?

A. They just stared at him and said nothing." (t.s.n., pp. 15-16, Hearing of October 28, 1966.)

According to the trial court, had the appellants "really been innocent (they) should have protested vigorously and

not merely kept their silence."

Hernando Carillo, a detention prisoner in the Pasay City jail, declared that the three (3) appellants admitted to him that they took part in the robbery and homicide committed in the residence of the deceased, viz.:

"ATTY. DEPASUCAT:

Q. Do you know the other accused Ramiro Alegre?

A. Yes, sir.

Q. If he is inside the courtroom, will you please point him out?

INTERPRETER:

Witness points to the fellow in the second row, fourth from the left who, upon being asked, gave his name as Ramiro Alegre.

ATTY. DEPASUCAT:

Q. Did you have any occasion to talk to Ramiro Alegre?

A. Yes, sir.

Q. Where?

A. In the city jail because our cells are also near each other.

Q. And what did you and Ramiro Alegre talk about?

A. Concerning his case and he told me that he has also participated in the commission of the killing of Adelina Sajo.

Q. By the way, when did you talk with Ramiro Alegre, more or less?

A. About the middle of June.

Q. And what else did Ramiro Alegre tell you, if any?

A. That he was also inside the room when they killed Adelina Sajo.

Q. Now, regarding that conversation you had with the accused Jesus Medalla, when did that take place, more or less?

A. About that month also of June, about the mid-dle of June.

Q. What year?

A. 1967.

Q. Do you know the other accused Mario Comayas?

A. Yes, sir.

Q. Why do you know him?

A. He is also one of the prisoners and our cells are near each other.

Q. If he is inside the courtroom, will you please point him out?

INTERPRETER:

Witness indicating to the fellow who gave his name as Mario Comayas.

ATTY. DEPASUCAT:

Q. Did you have any occasion to talk with the accused Mario Comayas?

A. Yes, sir.

Q. When was that, more or less?

A. In the month of June, about the middle part also of June.

Q. And what did you talk about?

A. Regarding this case of Adelina Sajo and he admitted to me that he was one of those who planned and killed Adelina Sajo.

Q. I see! And what else did he tell you, if any?

A. That while the killing was being perpetrated upstairs he was told to guard by the door.

Q. How about the other accused Melecio Cudillan, do you know him?

A. Yes, sir.

Q. If he is in court, will you please point him out?

INTERPRETER:

Witness pointing to the accused who gave his name as Melecio Cudillan.

ATTY. DEPASUCAT:

Q. Why do you know Melecio Cudillan?

A. Because he is with me in one cell.

Q. Were you able also to talk with Melecio Cudillan?

A. Most of the time because we used to talk about our case.

Q. When have you talked with Melecio Cudillan, more or less?

A. Three days after my confinement and subsequently thereafter up to about the first week of June, 1967.

Q. And what did the accused Melecio Cudillan tell you about his case?

ATTY. RAMIREZ:

Objection, Your Honor, leading.

COURT:

Witness may answer, there is already a basis. That they were the ones who planned and killed Adelina Sajo." (t.s.n., pp. 286-289, Hearing of July 21, 1967.)

However, during the trial, Melecio Cudillan repudiated both the Tacloban City and Pasay City sworn statements as the product of compulsion and duress. He claimed that he was not assisted by counsel when he was investigated by the police. Appellants Jesus Medalla and Mario Comayas denied any involvement in the crime. They testified that at the time of the incident in question, they were attending the internment of the deceased child

of Ciriaco Abobote. According to Jesus Medalla, he and his companions left the Maravilla compound at 10:00 o'clock in the morning of July 25, 1966 to attend the internment. They left the cemetery at about 5:00 o'clock in the afternoon and proceeded directly to his house at Leveriza Street where he stayed the whole night. Mario Comayas confirmed that he and Jesus Medalla were at the house of Ciriaco Abobote in the morning of July 25, 1966, until after 5:00 o'clock in the afternoon when he returned to the bakery where he was employed to resume his work.

Appellant Ramiro Alegre did not testify but presented three (3) witnesses to support his defense. Thus, Urbano Villanueva testified that he was a sub-contractor of Jose Inton for the welding project of David M. Consunji at the Sheraton Hotel construction; that Ramiro Alegre began working at the construction as a welder on July 13, 1966, and that from 7:00 o'clock in the morning to 4:00 o'clock in the afternoon, Alegre worked in the project and that he knew this because he is the foreman and timekeeper in the project. He identified the Time Record of Ramiro Alegre (Exhibit "1"). Rodolfo Villanueva and Romeo Origenes testified that from 7:00 o'clock in the morning up to 4:00 o'clock in the afternoon of July 25, 1966, appellant Ramiro Alegre was at the Sheraton Hotel construction at Roxas Boulevard. Their testimony is confirmed by the Time Record of Ramiro Alegre (Exhibit "1") which contained the number of hours he actually worked at the Sheraton Hotel construction project.

Appellants now contend that the lower court erred in utilizing the extrajudicial confessions of Melecio Cudillan (now deceased) as evidence against herein appellants; in concluding from the alleged "silence" of appellants when allegedly pointed to by Melecio Cudillan as "his companions" in the commission, of the crime, an admission of guilt; and in giving undue weight and credence to the testimony of an inmate of the Pasay City jail that appellants admitted to him their participation in the crime.

I

The extrajudicial confessions of Melecio Cudillan (Exhibits "A", "A-1" to "A-6" and "F", "F-1" and "F-2"), on the basis of which the trial court was able to reconstruct how Melecio Cudillan committed the crime in question, cannot be used as evidence and are not competent proof against appellants Ramiro Alegre and Jesus Medalla, under the principle of "*res inter alios acta alteri nocere non debet*",^[1] there being no independent evidence of conspiracy.^[2] As a general rule, the extrajudicial declaration of an accused, although deliberately made, is not admissible and does not have probative value against his co-accused. It is merely hearsay evidence as far as the other accused are concerned.^[3] While there are recognized exceptions to this rule, the facts and circumstances attendant in the case at bar do not bring it within the purview of such exceptions. The only evidence, therefore, linking the appellants to the crime would be their purported tacit admissions and/or failure to deny their implications of the crime made by Melecio Cudillan, and/or their purported verbal confessions to Hernando Carillo, an inmate of the Pasay City jail.

II

The next question to be resolved is whether or not the silence of appellants while under police custody, in the face of statements of Melecio Cudillan implicating them as his companions in the commission of the crime, could be considered as tacit admission on their part of their participation therein.

The settled rule is that the silence of an accused in criminal cases, meaning his failure or refusal to testify, may not be taken as evidence against him,^[4] and that he may refuse to answer an incriminating question.^[5] It has also been held that while an accused is under custody, his silence may not be taken as evidence against him as he has a right to remain silent; his silence when in custody may not be used as evidence against him, otherwise, his right of silence would be illusory.^[6] The leading case of *Miranda v. Arizona*^[7] held that the prosecution may not use

at trial the fact that an individual stood mute, or claimed his privilege against self-incrimination, in the face of an accusation made at a police custodial interrogation. Prior to *Miranda*, it was the view of many authorities that a man to whom a statement implicating him in a crime is directed may fail to reply if he is in custody under a charge of the commission of that crime, not because he acquiesces in the truth of the statement, but because he stands on his constitutional right to remain silent, as being the safest course for him to pursue and the best way out of his predicament.[8] Other courts have held that the circumstance that one is under arrest by itself does not render the evidence inadmissible, and that an accusation of a crime calls for a reply even from a person under arrest or in the custody of an officer, where the circumstances surrounding him indicate that he is free to answer if he chooses.[9]

We hold that the better rule is that the silence of an accused under custody, or his failure to deny statements by another implicating him in a crime, especially when such accused is neither asked to comment or reply to such implications or accusations, cannot be considered as a tacit confession of his participation in the commission of the crime. Such an inference of acquiescence drawn from his silence or failure to deny the statement would appear incompatible with the right of an accused against self-incrimination.

The right or privilege of a person accused of a crime against self-incrimination is a fundamental right. It is a personal right of great importance and is given absolutely and unequivocally. The privilege against self-incrimination is an important development in man's struggle for liberty it reflects man's fundamental values and his most noble of aspirations, the unwillingness of civilized men to subject those suspected of crime to the cruel trilemma of self-accusation, perjury or contempt; the fear that self-incriminating statements may be obtained by inhumane treatment and abuses, and the respect for the inviolability of the human personality and of the right of each individual "to a private enclave where he may lead a private life." [10]

In the words of *Chavez v. Court of Appeals*: [11]

"* * * this right is 'not merely a formal technical rule the enforcement of which is left to the discretion of the court'; it is mandatory; it secures to a defendant a valuable and substantive right; it is fundamental to our scheme of justice. * * *.

* * * * *

"Therefore, the court may not extract from a defendant's own lips and against his will an admission of his guilt. Nor may a court as much as resort to compulsory disclosure, directly or indirectly, of facts usable against him as a confession of the crime or the tendency of which is to prove the commission of a crime. Because, it is his right to forego testimony, to remain silent, unless he chooses to take the witness stand - with undiluted, unfettered exercise of his own free, genuine will."

It must be stressed here that even under a regime of martial law, the operations of our laws governing the rights of an accused person are not open to doubt. Under the code for the administration of detainees, all officers, civilian and military personnel are sworn to uphold the rights of detainees. Among such fundamental rights are the right against compulsory testimonial self-incrimination, the right, when under investigation for the commission of an offense, to remain silent, to have counsel, and to be informed of his rights; the right not to be subjected to force, violence, threats, intimidation and degrading punishment or torture in the course of one's detention, and the safeguard that any confession obtained in violation of the foregoing rights shall be inadmissible in evidence.[12] The 1973 Constitution gives explicit constitutional sanction to the right to silence. Thus, in Section 20 of Article IV of the Constitution, there is this categorical mandate: "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."

This privilege against self-incrimination guaranteed by the Constitution protects, therefore, the right of a person to remain silent unless he chooses to speak in the unfettered exercise of his own will, and to suffer no penalty for such silence.[13] This aspect of the right has been comprehensively explained by then Associate Justice Enrique M. Fernando, now Chief Justice, in *Pascual Jr. v. Board of Medical Examiners*,[14] thus:

"The constitutional guarantee protects as well the right to silence. As far back as 1905, we had occasion to declare: 'The accused has a perfect right to remain silent and his silence cannot be used as a presumption of his guilt.' Only last year, in *Chavez v. Court of Appeals*, speaking through Justice Sanchez, we reaffirmed the doctrine anew that it is the right of a defendant 'to forego testimony, to remain silent, unless he chooses to take the witness stand -with undiluted, unfettered exercise of his own free, genuine will.'"

Identifying the right of an accused to remain silent with right to privacy, this Court, in *Pascual*, explained that the privilege against self-incrimination "enables the citizen to create a zone of privacy which government may not force to surrender to its detriment."

We hold, therefore, that it was error for the trial court to draw from appellants' silence while under police custody, in the face of the incriminatory statements of Melecio Cudillan, the conclusion that the aforesaid appellants had tacitly admitted their guilt. We hold, further, that in view of the inadmissibility of the extrajudicial confessions of Melecio Cudillan implicating herein appellants, the remaining evidence against them, consisting in the testimonies of Sgt. Mariano Isla and Hernando Carillo, is insufficient to sustain the judgment of conviction. Indeed, it is inherently improbable that herein appellants would have readily confessed their participation in the commission of a heinous crime to a casual acquaintance in a prison detention cell, considering that on the same occasion they strongly denied any involvement in such crime before the police authorities.

WHEREFORE, the judgment appealed from is reversed, and appellants Ramiro Alegre y Cerdoncillo, Mario Comayas y Cudillan and Jesus Medalla y Cudillan are hereby ACQUITTED of the crime with which they are charged. Their immediate release from detention is ordered, unless they or any one of them is otherwise held for some other lawful cause.

SO ORDERED.

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

Aquino, J., concur in the result. The evidence of the prosecution is not sufficient to establish the guilt of the accused beyond reasonable doubt.

[1] Section 25, Rule 130, Revised Rules of Court.

[2] Section 27, *ibid.*

[3] *People v. Bañez*, L-26, Aug. 31, 1946, 77 Phil. 136; *People v. Oliva*, L-6033-35, Sept. 30, 1954 (Unrep.), 95 Phil. 962; *People v. Talledo, et al.*, L-1778, Feb. 23, 1950, 85 Phil. 533; *People v. Gerones* L-6595, Oct. 29, 1954, (Unrep.), 96 Phil. 965.

[4] Section 1(c), Rule 111, Revised Rules of Court.

[5] Section 79, Rule 123, *ibid.*

[6] *People v. Tia Fong alias Ah Sam*, L-7615, March 14, 1956, 98 Phil. 609.

[7] 384 U.S. 436, 16 L. ed. 2d 694.

[8] 29 Am. Jur. 2d 694, at §640.

[9] 16 C.J. 633; *People v. Tia Fong*, *supra*.

[10] Justice Goldberg, in *Murphy v. Waterfront Commission New York*, 378 U.S. 52; 84 S.C. 1594; 12 L. ed. 678, citing *Ullman v. Limited State* and *States v. Grunewlad*.

[11] L-29169, Aug. 19, 1968, 24 SCRA 663, 678-679.

[12] Ferdinand E. Marcos, *The Democratic Revolution*.

[13] *Malloy v. Hogan*, 378 U.S. 1, 12 L. ed. 653, 84 S.C. 1489.

[14] L-25018, May 26, 1969, 28 SCRA 344, 349-350.

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