

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE VS. RUFINO JULIANO Y ICO @ RUFING, ACCUSED-APPELLANT.*CR No. 32111, May 26, 2010*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/9fc82c840fac/>**Court of Appeals**

This an appeal[1] from the Decision[2] of the Regional Trial Court (RTC) of Malolos, Bulacan, Br. 78, Crim. Case No. 2863-M-2005, convicting the Accused-Appellant of Homicide, sentencing him to an indeterminate imprisonment of six (6) years and one (1) day to eight (8) years of prision mayor, as minimum, to fourteen (14) years, eight (8) months, and one (1) day to seventeen (17) years and four (4) months of reclusion temporal, as maximum, and ordering him to pay Fifty Thousand Pesos (Php50,000.00) as civil indemnity, Twenty-Five Thousand Pesos (Php25,000.00) as exemplary damages, Eighteen Thousand Pesos (Php18,000.00) as actual damages, and the costs of the suit.

The Facts:[3]

On October 19, 2005, an Information was filed before the RTC charging herein Accused-Appellant Rufino Juliano y Ico @ Rufino of Homicide. Thus:

That on or about the 27th day of July, 2005, in the municipality of Paombong, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a pointed instrument and with intent to kill one Arnold A. De Villa, with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously attack, assault and stab the said Arnold A. De Villa hitting him on his neck and inflicting upon him serious physical injuries which directly caused the death of the said Arnold A. De Villa.

Contrary to law.[4]

Upon arraignment and with the assistance of a counsel de oficio, the Accused-Appellant pleaded not guilty.[5] After the pre-trial, trial on the merits followed.[6]

The Version of the Prosecution:

Jeffrey Santos (Jeffrey)[7], a tricycle driver, testified that in the late afternoon of July 27, 2005, he and the Accused-Appellant, together with Arnold de Villa (Arnold) and Wilfredo Mendoza (Wilfredo), were engaged in a drinking spree at the house of their friend, Alfredo Mendoza (Alfredo). At one point, the Accused-Appellant and Arnold had a heated argument because the former wanted to get back his automated teller machine (ATM) card from the latter. Arnold, however, refused to give back the said ATM card. The argument worsened until the two (2) were already sharing each other. The secured-Appellant then ran his thumb across his neck threatening to kill Arnold. Despite the incident, Arnold and the Accused-Appellant thereafter left together and went to the rice field to continue their drinking session. Jeffrey, on the other hand, did not anymore join them.

Jeffrey further testified that two (2) days after their drinking spree, he received news that a dead body with long hair and wearing a red shirt was found in Sto. Niño Bata, Paombong, Bulacan. He went to the place where the body was found and saw Arnold's lifeless body. He thereafter met the Accused-Appellant who admitted to him

that he killed Arnold. Then, the Accused-Appellant requested for Jeffrey to testify and attest to his innocence. Not wanting to get involved in the mess, Jeffrey left and just continued to ply his route. It was only later that he went to the municipal hall of Paombong, Bulacan to give his statement to the police authorities.[8]

Mario De Villa (Mario)[9], a baker and the brother of Arnold, testified that the last time saw Arnold, they were both at a bakery in Liang, Malolos, Bulacan at about 3:00 p.m. on July 27, 2005; that he was preparing the ingredients for baking when the Accused-Appellant arrived thereat and fetched Arnold; and, that Arnold left with the Accused-Appellant because the latter was indebted to the former. Mario added that he does not have any personal knowledge as to whether it was the Accused-Appellant who actually killed Arnold; that as per investigation of the police authorities, his brother's death was due to a stab wound on the nape and on the waist;[10] and, that he spent Eighteen Thousand Pesos (Php18,000.00) for Arnold's funeral and burial.[11]

PO1 Jayson Salvador (PO1 Salvador)[12] testified that sometime in July 2005, he was at the Calumpit Police Station in Bulacan when a tricycle driver came and reported that a person's head was found in Sto. Niño Bata, Paombong, Bulacan. In response, their team went to the reported place and saw a human cadaver. They summoned the Scene of the Crime Operatives of General Alejo Santos, Malolos, Bulacan, for assistance in the investigation. After learning that the victim was Arnold, they spoke to the latter's brother, Mario, and gathered information that the latter last saw Arnold in the company of the Accused-Appellant. Thus, the police operatives conducted a follow-up operation and, thereafter, brought the Accused-Appellant at the police station for investigation. At first, the Accused-Appellant denied that he killed Arnold but after much questioning by the police, he eventually admitted that he had an altercation with Arnold so he stabbed the latter on the neck, pulled his body, and submerged him in a fishpond filled with garbage. The Accused-Appellant also pointed to the location of Arnold's personal belongings. PO1 Salvador admitted, however, that when Accused-Appellant confessed to the charge of Homicide, the latter was not assisted by a counsel.

Alfredo Mendoza (Alfredo) did not anymore take the witness stand, as the defense counsel agreed to the admission of his sworn affidavit as part of his direct testimony.[13] Also, the parties agreed to dispense with the testimonies of the following witnesses, namely: Po2 Crisanto Fulgente, as his participation in the investigation is limited to the taking of the statements of the witnesses;[14] and, Dr. Reynaldo Dave, Jr. and the police inspector from Camp Olivas, San Fernando, Pampanga, as they will merely identify the cadaver of the victim and testify on the veracity of their findings. The defense counsel qualified, however, that said witnesses do not have personal knowledge of the facts surrounding the case.[15]

The version of the Defense:

The Accused-Appellant[16] testified that, at about 2:00 o'clock to 3:00 o'clock in the afternoon of July 27, 2005, he and Alfredo were at Pineda's Bakery where they met Arnold and invited the latter for a drinking spree at Alfredo's, house. They also invited Jeffrey whom they chanced upon driving a tricycle. At Alfredo's house, the Accused-Appellant, Arnold, and Jeffrey commenced the drinking session. Thereafter, the Accused-Appellant inquired from Arnold if the latter still has his ATM card. When Arnold answered in the affirmative, the Accused-Appellant dropped the subject already.

On July 29, 2005, several policemen came to the Accused-Appellant's house and brought him to the police station where he was forced to admit that he killed Arnold. Thereafter, he was brought to a room where he was tortured - a wet towel was placed on his faced and cold water was poured on it, and he was beaten up by the police officers by kicking him with their knees and hitting him with magazine of a gun. He was also electrocuted, thus, causing the enlargement of his testicles. It was at this point that he admitted to the killing of Arnold. Before he was brought to the Provincial Prosecutor's Office, a policeman asked him to point to Arnold's personal belongings

which were already at the police station. He recalled Junior Salvador and Ver Ramos as two (2) of the four (4) police officers who tortured him. The Accused-Appellant admitted, however, that he did not relate the maltreatment of the police officers to the investigating prosecutor or submit himself to a doctor for a medical examination.

The Accused-Appellant emphasized during his examination in Court that no heated argument arose between Arnold and him. He likewise denied the accusation that he threatened to kill Arnold by making a gesture of running his thumb across his neck. After the drinking session, he and Arnold left and went separate ways. He went home to cook and feed his children. The Accused-Appellant also admitted that he, Arnold, and Jeffrey are friends; and, that he was indebted to Arnold in the amount of One Hundred Pesos (Php100.00) and so he gave his ATM card to the latter.

The Accused-Appellant's mother, Paulina Juliano[17], testified that, on July 27, 2005, she and her two(2) grandchildren stayed home the whole day. The Accused-Appellant arrived home at about 6:00 o'clock in the evening, watched some programs on the television, and thereafter went upstairs and slept. Two(2) days later, Barangay officials arrived at their house and brought her son to the Municipal Hall of Paombong, Bulacan where he was detained for about a week. When she finally saw the Accused-Appellant, the latter was lying pale inside the detention cell. The Accused-Appellant confided to her that he was tortured by the police officers. Despite these, she admitted that she did not do anything about it.

After the termination of the trial, the RTC rendered a decision finding the Accused-Appellant guilty beyond reasonable doubt of Homicide, viz;

Wherefore, the foregoing considered, this Court hereby finds accused Rufino Juliano y Ico @ Ruping guilty beyond reasonable doubt of the crime of Homicide and hereby sentences him to suffer the indeterminate penalty of 6 YEARS AND 1 DAY TO 8 YEARS OF PRISION MAYOR MINIMUM AS MINIMUM TO 14 YEARS, 8 MONTHS AND 1 DAY TO 17 YEARS AND 4 MONTHS OF RECLUSION TEMPORAL MEDIUM AS MAXIMUM and to pay the amounts of P50,000.00 as civil indemnity for the death of Arnold de Villa, P25,000.00 as exemplary damages, P18,000.00 as actual damages and the cost of the suit.

SO ORDERED.[18]

Hence, this appeal.

The Issues:

The errors raised by the Accused-Appellant:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT GRAVELY ERRED IN ADMITTING IN EVIDENCE THE EXTRA-JUDICIAL CONFESSION OF THE ACCUSED-APPELLANT DESPITE THE PATENT VIOLATION OF HIS CONSTITUTIONAL RIGHTS.[19]

This Court's Ruling:

In seeking for an acquittal, the Accused-Appellant argues, in fine, that he was denied of his constitutional rights when the police officers tortured and coerced him into confessing to the charge of Homicide without the

assistance of a counsel; that the circumstantial evidence relied upon by the RTC did not suffice to establish his guilt beyond reasonable; and, that he did not make any admission to Jeffrey regarding the killing of Arnold.

The appeal is bereft of merit.

Under Sec. 33, Rule 130 of the Revised Rules of the Court,[20] an extrajudicial confession made by an accused before the police authorities in which he acknowledges his guilt of the offense charged, or of any offense necessarily included therein, may be given in evidence against him. This rule, however, presupposes a strict observation of the rights of a person laid down in Sec. 12, Art. III of the 1987 Constitution, which provides in pertinent parts that:

(1)

Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel, preferably of his own choice. If the person cannot afford the services counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

(2)

No torture, force, violence, threat, intimidation or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.

(3)

Any confession or admission obtained in violation of this or Section 17 shall be inadmissible in evidence against him.

Simply put, the foregoing provision plainly and clearly mandates that, when a person is under custodial investigation for the commission of a crime, he has the right to: (1) remain silent; (2) be assisted by a competent and independent counsel of his choice before and during questioning; (3) be informed of such rights; and, (4) be given a counsel if he cannot afford one.[21] These rights, which stemmed from the landmark decision of the United States Supreme Court in *Miranda v. Arizona*[22], are further strengthened by the stringent rule that the waiver thereof cannot be made unless it is reduced in writing and is done in the presence of a counsel. Moreover, our 1987 Constitution has proscribed the act of subjecting a person to torture, force, threat, or any other means of compulsion which vitiate his free will. Thus, the Supreme Court enunciated in *Pp. v. Andan*[23] that:

Plainly, any person under investigation for the commission of an offense shall have the right (1) to remain silent; (2) to have competent and independent counsel preferably of his own choice; and (3) to be informed of such rights. These rights cannot be waived except in writing and in the presence of counsel. Any confession or admission obtained in violation of this provision is inadmissible in evidence against him. The exclusionary rule is premised on the presumption that the defendant is thrust into an unfamiliar atmosphere and runs through menacing police interrogation procedures where the potentiality for compulsion physical and psychological, is forcefully apparent. The incommunicado character of custodial interrogation or investigation also obscures a later judicial determination of what really transpired. (Emphasis Ours)

The rationale for the strict application of the rights of a person placed under custodial investigation is undeniable. The objective is to prohibit incommunicado interrogation of individuals in a police-dominated atmosphere,

resulting in self-incriminating statements without full warnings of his constitutional rights.[24]

In this case, however, aside from the bare allegations of the Accused-Appellant and his mother that he was tortured and beaten up by the police officers, no other evidence was adduced by him to convince this Court that he suffered in the hands of the said police officers. The Accused-Appellant has shown no proof of the use of violence and force on him such as a medical certificate. In fact, he admitted in open court that he did not bother to seek the medical attendance of a doctor.

Be that as it may, what renders the Accused-Appellant's extrajudicial confession to PO1 Salvador as inadmissible in evidence is the undisputed fact that his Miranda rights were grossly violated. To be specific, he was interrogated by said police officer without the benefit of being assisted by a counsel. Worse, PO1 Salvador himself admitted in open court that the Accused-Appellant did not waive his right to counsel and, yet, interrogation on him still proceeded. The testimony of PO1 Salvador is revealing:

Cross-examination by Prosecutor Benjamin Medrano:

Q

You said that you invited the accused for investigation in your precinct, is that correct?

A

Yes, sir.

Q

Was there in fact an investigation conducted to the accused?

A

Yes, sir.

Q

Who conducted the same?

A

I'm the one [sic].

Q

Aside from you[,] was there any other police officer who conducted the investigation?

A

I'm[sic] the only one.

Q

How long have you been in the service?

A

More than three (3) years.

Q

Before proceeding to conduct[the] investigation, did you inform the accused of his constitutional rights?

A

Yes, sir.

Q

And what is that constitutional right[sic] did you inform him of?

A

He has the right to remain silent. He has the right to counsel and all the words that he will say shall be used against him.

Q

Did you also inform the accused that he has the right to waive all those rights that you have enumerated to him?

A

Yes, sir.

Q

And you informed him of that right with the presence of a counsel?

A

Yes, sir.

Q

Did the accused waive his right?

A

No, sir.[25]

* * * * *

Q

Despite the fact that there is no waiver of this[sic] rights that you have informed him[,] you still proceed[ed] to investigate the accused?

A

Yes, sir.

Q

And in fact you said that the accused admitted to the charges being brought to [sic] him?

A

Yes, sir.

Q

And during that time he was unassisted by a counsel?

A

None, sir.

Q.

You said that you recovered the wallet as well as the cellphone from the respective locatlon[s] where they were recovered, what led you to that place?

A

Because it was the suspect who told us.

Q

So you gathered that information from the suspect?

A

Yes, sir.

Q

And at the time that you have gathered that information from the suspect, was he assisted by a counsel?

A

No, sir.

Q

Now you said that the victim was stabbed, was there any knife recovered or any pointed instrument?

A

According to the suspect he used a bamboo stick in stabbing the victim but the doctor said that it could have not been a bamboo stick but a harder object like metal so I asked him again and he admitted to me that he used a fan knife in stabbing the victim and it jive[sic] to the testimony of Jeffrey Santos.

Q

When did you ask the accused of what weapon was used at that time, was this on the same time that you investigated him?

A

When the case was already filed at MTC Paombong.

Q

At that time, was he assisted by a counsel?

A

No, sir.

Q

In the conduct of your investigation, Is it a practice of you to ask or to proceed with an investigation without the presence of a counsel?

A

That is the standard operating procedure in our office if there is no available Public Attorney.[26]

It can easily be inferred from the above that the Miranda rights of the Accused-Appellant were not duly observed. PO1 Salvador was remiss in his duty when he deliberately disregarded the Accused-Appellant's right to be assisted by a counsel. He even admitted that it is the standard operating procedure at the police station to proceed with an investigation even in the absence of a counsel so that they can comply with Art. 125 of the Revised Penal Code which prescribes the maximum period of detention of an accused. This justification, however, does not sway.

The rights of an accused enshrined in Sec. 12, Art III of the 1987 Constitution cannot be compromised under the lame excuse that the police officers are called upon to act pursuant to Art. 125 of the Revised Penal Code. The rights accorded under the Miranda doctrine must prevail in view of its objective which is, to reiterate, to prevent a person who is swept into an unfamiliar environment of interrogation and surrounded by the intimidating figures of police, from giving uncounselled statements. Besides, the police officers, being experts in the enforcement of the law, should have the necessary means and resources to carry out their official functions speedily and efficiently without sacrificing the fundamental rights of a person subject of investigation. Thus, during the examination in

court of PO1 Salvador, even the RTC reminded the said police officer of his duty to observe the Miranda doctrine, viz:

COURT:

The first thing that an investigation[sic] should do in case of custodial investigation is to inform the accused[of] the right to remain silent because anything he says will be used against him in any tribunal and then you have to inform him that he has the right to counsel of choice. You ask him if he can be assisted by a counsel like counsel from the PAO and you cannot start questioning the suspect unless you follow this and if the accused wishes to waive his constitutional right under custodial investigation[,] it must be in the presence of a counsel and done in writing by the accused with a counsel.

Q Did you do that?

A Yes, your Honor.

[COURT:]

At any rate[,] I will leave it to the prosecution and the defense. This is only for you. I heard you testified and you don't even know what you are saying. Learn more, this Court has nothing against you, this is a learning process.[27]

On this score, We rule that whatever confession the police obtained from the mouth of the Accused-Appellant may not be used in evidence against the latter, as there was no proof that before he gave such confession, the Accused-Appellant reduced his waiver in writing and in the presence of a lawyer.

Notwithstanding the inadmissibility of the Accused-Appellant's extra-judicial confession to PO1 Salvador, We hold that the ruling of the RTC finding the Accused-Appellant guilty beyond reasonable doubt of Homicide must be upheld.

We explain.

Records disclose that the Accused-Appellant admitted to Jeffrey that he killed Arnold. Below are the pertinent portions of Jeffrey's testimony:

Direct examination by Prosecutor Medrano:

Q

Having identified the document- [may] the second page be bracketed and marked as Exh. C-1 and the signature C-2. Tell us if you came to know how Arnold de Villa died?

A

I learned that there was a dead person In Sto. Niño and I proceeded to the place and after that, I met Rufino.

Q

Do you know the reason why he died?

A

Because of the ATM card.

Q

Where is Rufino Juliano now?

A

That person (witness pointing to a person who when asked, answered that he is Rufino Juliano)[.][28]

Cross-examination by Atty. Rolando Ty:

Atty. Ty

Did you see how Arnold de Villa die?

A

No.

Q

And how Mr. Witness did you know that the accused in this case Rufino Juliano was the one who killed Arnold de Villa?

A

I asked him if he killed Arnold de Villa.

Q

And what did this Rufino Juliano die[sic]?

A

He told me Jeff, pinatay ko na kainuman ko kagabi.

Q

After that reply, what did you do?

A

I left.

Q

Why?

A

I was afraid.

Q

What did you do after leaving Rufino?

A

I ply[sic] my route as tricycle driver.

Q

You commence[d] to do what you ordinarily do everyday?

A

Yes.

Q

In effect, you did not take the answer of Rufino Juliano seriously?

A

No.

Q

After talking to Rufino, did you exert any effort to investigate whether Rufino Juliano was really the one who killed Arnold de Villa?

A

Because he admitted to me he was the one who killed Arnold de Villa?

Q

But despite that, you did not do anything?

A

None.

Q

Why was that?

A

I just ply my route as tricycle driver.

Q

You had been confided that a crime has been committed yet, you did not do anything[,] why?

A

I am afraid I might be implicated.

Q

How was that, why were you afraid you will be implicated, are you guilty?

A

Because when he told me he was the one who killed Arnold de Villa, he told me he will use me as a witness[sic] that he was not the one who killed Arnold de Villa.

Q

Aside from that, were you threatened by Rufino Juliano?

A

No.[29]

Re-direct examination by Prosecutor Medrano;

Q

What was your reply to him when he told you that he will utilize you as a witness and he has nothing to do with the killing of the victim?

A

I said Rufino, wag mo na akong idamay.

Q

What was his answer?

A

He did not answer then, I left.

Q

His offer to make you as a witness happened on the same occasion he admitted to you his participation in the killing?

A

Yes.[30]

Re-cross examination by Atty. Ty:

Q

You said earlier that after Rufino answered to your inquiry as to who killed the victim in this case, you said you immediately left Rufino and how come you testified that Rufino even asked you to testify for his behalf, why the sudden recollection?

A

After telling me that he was the one who killed Arnold de Villa, he also told me that he will utilize me as a witness.

Q

So what you told us earlier was not the truth?

A

That is true.

Q

So which is which[?]

A

The same. He admitted to me that he killed Arnold de Villa.[31]

A perusal of the above evidently shows the categorical and straightforward manner by which Jeffrey testified. He consistently held his ground in testifying that when he confronted the Accused-Appellant, the latter admitted that he killed Arnold. We, therefore, find no reason to discredit Jeffrey. Besides, logic and human experience dictate that a person would not falsely testify against another unless the former is belaboring a grudge against the latter. As the Accused-Appellant himself stated in open court that Jeffrey is his friend, this Court is more inclined to believe that Jeffrey testified against the Accused-Appellant to give justice to the case at bench.

While ordinarily, the rule requires that a witness should only testify on facts which he has personal knowledge of,[32] nevertheless, any act, declaration, or omission of a party as to a relevant fact may be given in evidence against him. This is expressly provided in Sec. 26, Rule 130 of the Revised Rules of Court. The Accused-Appellant's admission to Jeffrey therefore falls under this rule.

More the requirements under the Miranda doctrine need not be observed insofar as the Accused-Appellant's extra-judicial admission to Jeffrey is concerned, because such admission is made to a private person.[33] As held in Andan[34]

Thus, it has been held that the constitutional procedures on custodial investigation do not apply to a spontaneous statement, not elicited through questioning by the authorities, but given in an ordinary manner whereby appellant orally admitted having committed the crime. What the Constitution bars is the compulsory disclosure of incriminating facts or confessions. The rights under Section 12 are guaranteed to preclude the slightest use of coercion by the state as would lead the accused to admit something false, not to prevent him from freely and voluntarily telling the truth. Hence, we hold that appellant's confession to the mayor was correctly admitted by the trial court.

* * * * *

We rule that appellant's verbal confessions to the newsmen are not covered by Section 12 (1) and (3) of Article III of the Constitution. The Bill of Rights does not concern itself with the relation between a private individual and another individual. It governs the relationship between the individual and the State. The prohibitions therein are primarily addressed to the State and its agents. They confirm that certain rights of the individuals exist without need of any governmental grant, rights that may not be taken away by government, rights that government has the duty to protect. Governmental power is not unlimited and the Bill of Rights lays down these limitations to protect the individual against aggression and unwarranted interference by any department of government and its agencies. (Emphasis Ours)

The above doctrine was reiterated in *Pp. v. Zuela, et al.*[35] which quoted in verbatim the ruling of the Supreme Court in *Pp. v. Maqueda*[36], thus:

However, the extrajudicial admissions of Maqueda to Prosecutor Zarate and to Ray Dean Salvosa stand on a different footing: These are not governed by the exclusionary rules under the Bill of Rights. Masqueda voluntarily and freely made them to Prosecutor Zarate not in the course of an investigation, but in connection with Maqueda's plea to be utilized as a state witness; and as to the other admission, it was given to a private person. The provisions of the Bill of Rights are primarily limitations on government, declaring the rights that exist without the governmental grant, that may not be taken away by government and that government has the duty to protect; or restrictions on the power of the government found "not in particular specific types of action prohibited, but in the general principle that keeps alive in the public mind the doctrine that governmental power is not unlimited." They are the fundamental safeguards against aggressions of arbitrary power, or state tyranny and abuse of authority. In laying down the principles of the government and fundamental liberties of the people, the Constitution did not govern the relationships between individuals.

Accordingly, Maqueda's admissions to Ray Dean Salvosa, a private party, are admissible in evidence against the former under Section 26, Rule 130 of the Rules of Court. In *Aballe vs. People* (183 SCRA 196 [1990]), this Court held that the declaration of an accused expressly acknowledging his guilt of the offense may be given in evidence against him and any person, otherwise competent to testify as a witness, who heard the confession, is competent to testify as to the substance of what he heard if he heard and understood it. The said witness need not repeat verbatim the oral confession; it suffices if he gives its substance. By analogy, that rule applies to oral extrajudicial admission. (Emphasis Ours).

Verily, where an admission is made to a private person, the same is admissible in evidence against the person who made such declaration. On another note, let it be pointed out that the admission by the Accused-Appellant is not the only basis for which his conviction is being upheld. The prosecution also successfully established the case against him through circumstantial evidence.

In prosecuting a criminal case for Homicide, the accused must be positively identified as the assailant of the victim. Positive identification essentially requires proof of identity of the accused as the perpetrator. However, he

need not be identified through an eyewitness account of the very act of committing the offense charged. Rather, he may be convicted through indirect or circumstantial evidence,[37] as what the prosecution in this case did.

Under Section 4, Rule 133 of the Revised Rules of Court, circumstantial evidence is sufficient for conviction if: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and, (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[38] As explained by the Supreme Court in *Pp. v. Raquiño*[39]:

Under our rules on evidence, an accused may be convicted even if no eyewitness was present during the commission of the crime provided that enough circumstantial evidence is established by the prosecution to prove beyond reasonable doubt that the accused committed the crime (*People vs Lagao, Jr.* 271 SCRA 51 [1997]). Circumstantial evidence may be sufficiently cogent to satisfy the judicial conscience, and may be as potent as direct testimony in tending to connect the accused with the commission of the offense (*People vs. Eubra*, 274 SCRA 180 [1997]). Resort to circumstantial evidence is essential when to insist on direct testimony would result in setting felons free and deny proper protection to the community. Circumstantial evidence, we repeat, is not a "weaker" form of evidence vis-a-vis direct evidence (*People vs. Prado*, 254 SCRA 531 [1996]). This is why there has to be this second kind of positive identification. It is positive just like that of the eyewitness' identification because it has to be as express, affirmative, an reliable like the identification by an eyewitness for it to form an integral part of the circumstantial evidence which may be the basis of a conviction of the person thus identified. (Emphasis Ours)

After carefully perusing the records at bench, We find the following circumstances to be sufficient to convict the Accused-Appellant of Homicide: (1) The Accused-Appellant invited Arnold for a drinking session at Alfredo's house; (2) during the said session, a heated argument between Arnold and the Accused-Appellant ensued because the former refused to return the latter's ATM card; (3) the Accused-Appellant then made a motion of threatening to kill Arnold by running his thumb across his neck; and, (5) after the drinking session, the Accused-Appellant and Arnold left together and continued their drinking at the rice field.

The Accused-Appellant's claims that he did not have an argument with Arnold during the drinking session and that they separated after they left Alfredo's house are negated by the testimony not only of Jeffrey but also of Alfredo, whose statements in his sworn affidavit formed part of his direct testimony, viz:

Na, noong ika-27 ng Hulyo sa pagitan ng alas 4:00 at alas 5:00 ng hapon taong kasalukuyan ay nag-aaya ng inuman sina Rufing Juliano na aking kinakapatid at Jeff Santos at ang pinatay na si Arnold De Villa[,] na ako ay kanilang inaaya subalit ang sinabi ko sa kanila ay sila na dahil

hindi ako umiinpm at doon sila nag[.]inum sa aming bahay dahil sa kanila ng pakiusap, na akin naman silang pingabigayan[sic] dahil si Arnold ay aking kasama sa trabaho sa Pineda bakery at [sic] si Rufing ay aking kinakapatid subalit si Jeff Santos ay hind ko kaano[-]ano.

Na, noong nag[-]iinum sila ay napansin ko na mayroon na silang pinagtatalunan na hindi ko mabatid kung ano na kalaunan ay ang ATM cards pala and kanilang pinagtatalunan at hindi ko na lamang pinansin ang kanilang pinagtatalunan dahil sa mga oras ng kanilang pag[-]inum ay naglalaba ako ng aking damit at masama ang loob ko dahil ayaw ko silang payagan na uminom sa bahay dahil ipinagbabawal ng aking mga[sic] magulang [sic] ang uminom sa aming bahay.

Na, nung matapos silang maginuman ay mag aalas sais Y medya ng ng gabi at ang napansin ko na lamang na magkasamang lumabas ng aming bahay ay si Rufing Juliano na lang at Arnold at si Jeff Santos ay hindi ko na napansin at makalipas ang Hang minuto ay lumabas ako ng aming bahay at nakita ko pa rin na magkasama sina Arnold at Rufing sa may kanto na may kalayuan na sa aming bahay at ang oras noon ay pasado alas siyete na ng gabi sa nasabi din petsa, na akin pa silang binati at pumasok sa aming bahay at inayos ko ang kanilang pinag-inuman, at mula ng mga oras at petsa na yun ay doon ko na lamang nakitang buhay si Arnold De Villa.

Na, ginawa ko ang salaysay na ito upang magpatunay na si Rufing Juliano and huling nakasama[sic] ni Arnold Devilla[sic] ng araw na mawala ito at bilang[sic] ay ilalagda ko ang aking pangalan sa ibaba nito.[40]

On this score, the circumstantial evidence of the prosecution, coupled with the Accused-Appellant's admission to Jeffrey that he killed Arnold, established beyond reasonable doubt the guilt of the Accused-Appellant. He clearly had motive to attack and kill Arnold. In his testimony, the Accused-Appellant admitted that he was indebted to Arnold and so he lent his ATM card to the said victim. Jurisprudence holds that motive, although not an element of the crime, becomes significant when the evidence is circumstantial or inconclusive and there is some doubt on whether a crime has been committed or whether the accused has committed it.[41] Finally, there is not denying that the corpus delicti of the crime was proven. As explicitly provided under Sec. 3, Rule 133 of the Revised Rules of Court, [a]n extrajudicial confession made by an accused, shall not be sufficient ground for conviction, unless corroborated by evidence of corpus delicti. The prosecution had duly established the fact of Arnold's death through the testimonies thereon of Mario and PO1 Salvador and through the presentation of Arnold's death certificate.

In view of all the foregoing, We rule and so hold that the conviction of the Accused-Appellant must be upheld.

As for the penalties, the same must, however, be modified for being erroneous. The crime of Homicide is punishable under Art. 249 of the Revised Penal Code by reclusion temporal, which ranges from twelve (12) years and one (1) day to twenty (20) years. Applying the Indeterminate Sentence Law, the minimum penalty for Homicide must be taken within the range of the penalty next lower to that of reclusion temporal, that is, prision mayor, which ranges from six (6) years and one (1) day to twelve (12) years. On the other hand, there being no modifying circumstances attendant to the commission of the crime, the maximum penalty must be taken within the medium period of reclusion temporal, which ranges from fourteen (14) years, eight (8) months, and one (1) day to seventeen (17) years and four (4) months. In view of this Court's discretionary power to fix the penalty, We thus impose upon the Accused-Appellant the indeterminate sentence of six (6) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of reclusion temporal, as maximum.

Finally, the civil liability imposed by the RTC must also be modified in that the absence of any aggravating circumstance does not warrant the award of exemplary damages.[42] Thus, the award of Twenty-Five Thousand Pesos (Php25,000.00) as exemplary damages must be deleted. Moreover, moral damages are awarded without need of further proof other than the fact of the killing.[43] Thus, in line with current jurisprudence,[44] the amount of Fifty Thousand Pesos (Php50,000.00) as moral damages is additionally awarded to the heirs of Arnold.

All told, the assailed decision of the RTC must be upheld although with modification.

WHEREFORE, the appeal is PARTLY GRANTED. The assailed decision finding the Accused-Appellant guilty beyond reasonable doubt of Homicide and ordering him to pay the heirs of Arnold de Villa the amounxs of Fifty Thousand Pesos (Php50,000.00) as civil indemnity and Eighteen Thousand Pesos (Php18,000.00) as actual damages are AFFIRMED, with the MODIFICATION that the Accused-Appellant is SENTENCED to suffer the indeterminate penalty of six (6) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of reclusion temporal, as maximum, and is ordered to additionally pay the amount of Fifty Thousand Pesos (Php50,000.00) as moral damages to the heirs of Arnold de Villa. The award of Twenty-Five Thousand Pesos (Php25,000.00) as exemplary damages is DELETED. With Costs.

SO ORDERED.

Tolentino and Ayson, JJ., concur.

Appeal partly granted. Judgment affirmed with modification.

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- [1] See Notice of Appeal dated October 21, 2008, and the RTC Order, dated November 18, 2008, approving the same; Rollo, pp. 36 and 37, respectively.
- [2] Penned on October 9, 2008; *id.*, pp. 23-34.
- [3] As culled from the records.
- [4] See Information dated September 19, 2005; Record, p. 2.
- [5] See RTC Order dated November 8, 2005; *Id.*, p. 16.
- [6] See Pre-Trial Order dated November 25, 2005; *Id.*, p. 22.
- [7] 22 yrs. old, married, a tricycle driver, and residing in Anilao, Malolos, Bulacan; TSN, February 9, 2006; *Id.*, p. 33.
- [8] See Exh. "C", Sinumpaang Salaysay; *Id.*, pp. 9-10.
- [9] 31 yrs. Old, married, a baker, and residing in Caniogan, Malolos, Bulacan; TSN, June 15, 2006; *Id.*, p. 79.
- [10] See Exh. "D", Death Certificate; *Id.*, p. 260.
- [11] See Exhs. "G" and "G-1", Provisional Receipts Nos. 656; and 654; *Id.*, pp. 261 and 262, respectively.
- [12] 28 yrs. old, married, a member of the Philippine National Police, and residing in Brgy. Burgos, Nueva Ecija; TSN, September 14, 2006; *Id.*, p. 106.
- [13] See TSN, February 1, 2007; *Id.*, pp. 154-161.
- [14] *Ibid.*
- [15] See RTC Order and TSN both dated June 15, 2006; *Id.*, pp. 77 and 83, respectively.
- [16] 25 yrs. old, married, an electrician, and residing in Sto. Niño Bata, Paombong, Bulacan; TSN, August 3, 2007; *Id.*, p. 194.
- [17] 55 yrs. old, married, a vendor, and residing in Sto. Niño Bata, Paombong, Bulacan; TSN, August 24, 2007; *Id.*, p. 215.
- [18] Rollo, p. 34.
- [19] See Brief for the Accused-Appellant; *Id.*, pp. 46-64.
- [20] Sec. 33 Rule 130 of the Revised Rules of Court reads: The declaration of an accused acknowledging his guilt of the offense charged, or any offense necessarily included therein, may be given in evidence against him.
- [21] See *Pp. v. Mojello*, G.R. No. 145566, March 9, 2004.

[22] 384 U.S. 436 (1966).

- [23] G.R. No. 116437, March 3, 1997.
- [24] See *Pp. v. Ayson*, G.R. No. 85215, July 7, 1989.
- [25] See TSN, September 14, 2006; Record, pp. 122-125. Emphasis Ours.
- [26] *Id.*, pp. 125-129. Emphasis Ours.

[27] See TSN, September 14, 2006; Record, pp. 134-136.

[28] See TSN, April 27, 2006; Record, p. 58. Emphasis and bracketed insertions Ours.

[29] Id., pp. 59-60. Emphasis and bracketed insertions Ours.

[30] Id., p. 60. Emphasis Ours.

[31] Id., pp. 60-61. Emphasis and bracketed insertion Ours.

[32] See Sec. 36, Rule 130 of the Revised Rules of Court, which provides that: A witness can testify only to those facts which he knows of his personal knowledge; that is which are derived from his own perception, except as otherwise provided in these rules.

[33] See Pp. v. Andan, supra.

[34] Supra.

[35] G.R. No. 112177, January 28, 2000.

[36] G.R. No. 112983 March 22, 1995.

[37] See Pp. v. Raquiño, infra,

[38] See Pp. v. Prado, G.R. No. 95260, March 8 1996.

[39] G.R. No. 132480, September 30, 1999. See also Pp. v. Ramos, G.R. No. 104497, January 18, 1995, and Pp. v. Prado, supra.

[40] See Exh. "A", Sinumpaang Salaysay; Record, p. 6. Emphasis and bracketed insertions Ours.

[41] See Pp. v. Ducabo, G.R. No. 175594, September 28, 2007.

[42] See Art. 2230 of the New Civil Code which provides that [ijn criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. * * * See also Pp. v. Baluntong G.R. No. 182061, March 15, 2010.

[43] See Pp. v. Geral, G.R. No. 145731, June 26, 2003, and Pp. v. Cabote, G.R. No. 136143, November 15, 2011.

[44] See Pp. v. Berondo, Jr., G.R. No. 177827, March 30, 2009.

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