

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARTE OBEDOZA, ALIAS “ALFONSO OBEDOZA”;
LAURO ALCANTARA, AMBROCIO SUMALBAG, BEN BOCASAS, LUCIO
PALDENG, LONDRING MARTINE...**

G.R. No. L-30577. July 24, 1981

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

At Barrio Salagusog, Cuyapo, Nueva Ecija, on the night of May 28, 1967, while Maximiniano Cabangcala and his wife Isabel Dacanay, together with their two grandchildren were at their house, several persons armed with firearms took away their four carabaos (3 males and one female) and one cow. When Maximiniano Cabangcala heard the firing of guns, he jumped out of the window and he was hit by pellets on his right leg.

Dr. Pio Alberto, Municipal Health Officer of Cuyapo, who examined the victim Maximiniano Cabangcala the next morning on May 29, 1967, stated that the diameter of the gunshot wounds caused by pellets was six inches and it was caused by a .12 gauge shotgun. Later, gangrene began to develop, and the victim was advised the necessity of amputation of the wounded leg, but he refused; hence he died on June 13, 1967.[1]

The animals that were stolen were covered by certificates of ownership of large cattle.[2]

No immediate identification of the persons responsible for the crime could be done until October 24, 1967, when investigation conducted by the police led to an alleged confession by Lauro Alcantara.[3] Lauro Alcantara pointed to Quines Linda, Ben Bocasas, Lucio Paldeng, Londring Martinez and Jessie Quitan as his companions when the carabaos and cow were stolen and Maximiniano Cabangcala was shot. Alcantara pointed to Ben Bocasas as the one who shot Cabangcala and to Quines Linda as the one who sold the stolen animals. Alcantara also pointed to Ambrocio Sumalbag, as the one who informed the group where they could steal cattle.[4]

Ricarte Obedoza, pointed out by Alcantara as one of his companions during the incident, was also investigated. Ricarte Obedoza allegedly executed a confession admitting he was with the group that perpetrated the crime on May 28, 1967, when Ben Bocasas shot the owner of the stolen large cattle under orders of Ambrocio Sumalbag.[5]

As a result of this investigation, a complaint for "Robbery in Band with Homicide" was filed in the Municipal Court of Cuyapo on November 22, 1967,[6] against Ricarte Obedoza, alias Alfonso Obedoza, Lauro Alcantara, Ambrocio Sumalbag, Ben Bocasas, Lucio Paldeng, Londring Martinez, Jessie Quitan, Jose Marcos and John Doe, alias Atong Rungrong. On November 27, 1967, the complaint was amended to include Quines Linda.

After preliminary investigation, the case was forwarded to the Court of First Instance of Nueva Ecija, Branch IV, at Guimba.[7] The Provincial Fiscal filed the corresponding information dated March 18, 1968, charging Ricarte Obedoza, alias Alfonso Obedoza, Lauro Alcantara, Ambrocio Sumalbag, Ben Bocasas, Lucio Paldeng, Londring Martinez, Jessie Quitan, Jose Marcos, and John Doe, alias Atong Rungrong, with the crime of Robbery in Band

with Homicide, committed as follows:

"That on or about the 28th day of May, 1967, in the Municipality of Cuyapo, Province of Nueva Ecija, Philippines and within the jurisdiction of this Honorable Court, the above named accused, all then being armed with firearms, conspiring, confederating and mutually aiding one another and with intent to gain, did then and there by means of force, violence and intimidation wilfully, unlawfully and feloniously take, steal and carry away one (1) male cow valued at EIGHT HUNDRED (P800.00) PESOS, three (3) male carabaos, totally valued at FIVE HUNDRED (P500.00) PESOS, Philippine Currency, belonging to Maximiniano Cabangcala, against the latter's consent and to his damage and prejudice in the aforementioned amount.

"And that, by reason or on the occasion of the above-mentioned robbery, and in the furtherance of their criminal design, the above-named accused, with intent to kill, did then and there likewise, willfully, unlawfully, feloniously fire, and shoot at the person of Maximiniano Cabangcala, thus inflicting upon him serious physical injuries which consequently caused his death.

"Contrary to law."[8]

Of all the aforementioned accused, only Londring Martinez, Ambrocio Sumalbag and Lauro Alcantara were arraigned and tried, the others remaining at large. Quines Linda was not included as an accused.[9]

After trial, the lower court convicted the accused, in the decision dated March 26, 1969, with dispositive portion as follows:

"WHEREFORE, finding the accused Lauro Alcantara, Londring Martinez, or Eufemiano Martinez, and Ambrocio Sumalbag guilty beyond reasonable doubt of the crime of robbery in band with homicide, the Court sentences each of them to life imprisonment, to suffer the accessory penalties provided for by law, to indemnify the heirs of Maximiniano Cabangcala three-eighths of the sum of P12,000.00, three-eighths of the sum of P2,800.00, value of the carabaos and cow stolen, and to pay three-eighths (3/8) of the costs.

"IT IS SO ORDERED."[10]

Accused Ambrocio Sumalbag and Londring Martinez appealed the decision.

The version of the prosecution is as follows:

After the crime was committed on May 28, 1967, the Cuyapo police could not identify the persons responsible for the death of Cabangcala. Investigation continued until the police received information that a certain Lauro Alcantara was apprehended with stolen kitchen utensils in his possession by the police of Balungao, Pangasinan, sometime in October of 1967.[11] Sgt. Rufino de Gracia of the Cuyapo police headed a team that went to Balungao, Pangasinan, where he interviewed Alcantara and the latter allegedly admitted that he committed a series of offenses such as thefts of carabaos in the different barrios of Cuyapo, one of which took place at Barrio Salagusog. The Chief of Police of Balungao gave the police of Cuyapo temporary custody of Alcantara and the latter was brought to Cuyapo for investigation.[12]

Alcantara, at Cuyapo, allegedly confessed his participation in several offenses committed in that town, particularly the robbery at Barrio Salagusog where the victim was shot. The alleged confession, reduced to writing,[13] was subscribed and sworn to before the Municipal Judge of Cuyapo. It narrated that on the night of May 28, 1967, in Barrio Salagusog, Alcantara and his companions Quines Linda (not included as accused), Ben Bocasas, Lucio Paldeng, Londring Martinez and Jessie Quitan took away four carabaos and a cow, after Bocasas shot the owner of the cattle. They brought the animals to Sto. Tomas, Pangasinan, where Quines sold them for P350 which was divided among them. The mastermind in the cattle rustling was Bernabe Bacilig and their informer in Cuyapo was Ambrocio Sumalbag.[14]

After the Cuyapo police brought Alcantara back to Balungao, Pangasinan, they discovered Ricarte Obedoza, alias Alfonso Obedoza, also implicated by Alcantara confined in the Balungao municipal jail. Obedoza, together with Alcantara, was taken to Cuyapo where he was investigated by Cuyapo police Lt. Casimiro Aguinaldo.

Obedoza allegedly broke down and confessed his actual participation in the crime at Barrio Salagusog. His confession was reduced to writing, substantially affirming the version of Alcantara's alleged confession, and it was sworn to before the Municipal Judge of Cuyapo.[15]

Obedoza and Alcantara were brought to the scene of the crime where they allegedly, in a re-enactment of the crime, described their relative positions at the scene when the crime was committed.[16]

As a result of the investigation, the complaint was filed in the Municipal Court of Cuyapo as already narrated. Quines Linda was included as an accused. When the Provincial Fiscal filed the corresponding information, Quines Linda was not included as an accused for unknown reasons notwithstanding his waiver to present evidence during the preliminary investigation. Ricarte Obedoza, in another strange happening, was released from detention without bail. Only Londring Martinez, Ambrocio Sumalbag, and Lauro Alcantara were tried, the rest of the accused having remained at large.[17]

During the trial of this case only five prosecution witnesses testified, namely, Isabel Dacanay and Rosendo Encomienda, widow and son-in-law, respectively, of the victim; Sgt. Rufino de Gracia and Lt. Casimiro Aguinaldo of the Cuyapo Police Force; and Dr. Pio Alberto.

The widow Isabel Dacanay testified as to how the robbery was committed and her husband was shot, but she could not identify the malefactors at the time of the incident.[18]

Son-in-law Rosendo Encomienda stated that at the time the crime was committed he was two kilometers away. Prior to the incident, his father-in-law, the victim, sought the help of Ambrocio Sumalbag, who was then a barrio councilor, to recover two stolen carabaos.[19]

Sgt. de Gracia and Lt. Aguinaldo of the Cuyapo Police Force testified on the investigation conducted by them and the alleged extra-judicial confessions of accused Alcantara and Obedoza.[20]

Dr. Alberto testified on the nature of the victim's wound caused by pellets which later by reason of gangrene resulted in his death when he refused an amputation. Victim Cabangcala could have survived if he consented to the operation. He left the clinic where he was confined and transferred to another clinic where he died.[21]

The version of the defense is as follows:

The accused presented different alibis. Lauro Alcantara stated that he was at Barrio San Vicente, Rosales, Pangasinan on May 28, 1967, because he was courting someone. He was residing at Barrio Esmeralda, Balungao, Pangasinan, four kilometers from Barrio San Vicente. On May 28, 1967, he was at Barrio Esmeralda and he slept at 6:30 in the evening, and woke up at 7:00 a.m., the following morning. In May, 1967, he was arrested at Barrio San Vicente, in the house of a girl he was courting, by Chief Sison of San Leon, Pangasinan, and the Chief of Police of Balungao, Pangasinan. He was maltreated at the Balungao cemetery, with his face covered, and they forced him to admit he was a thief. From the Balungao jail, Rufino de Gracia, Major Servando and two others, took him to Cuyapo where he was taken to the cemetery and tortured by placing a towel on his face and pouring soft drinks on his nose. He was forced to confess that Ambrocio Sumalbag was their commander in the robbery. He was also compelled to point at Londring Martinez as their companion in the crime. He came to know Sumalbag and Londring Martinez only at the jail in Cabanatuan. He agreed to implicate Sumalbag because he learned that Sumalbag killed his uncle Jose Flores. He was maltreated in the evening of October 24, 1967. He

signed the confession[22] because Major Servando and Rufino de Gracia threatened that if he did not do so, they would take him to Balungao, and on the way tell him to get off the vehicle and shoot him. Because of the maltreatment he had to admit that he was one of those who committed the crime on May 28, 1967, when he did not even know Barrio Salagusog, Cuyapo, Nueva Ecija.[23]

Accused Alcantara did not know the victim Cabangcala. He did not know anything about the sketch appearing on Exhibit "G". He was arrested in September, 1967. His alleged confession was written in English and not translated to the Ilocano dialect. Alcantara cannot read and write, and he never went to school.[24]

The alibi of accused Eufemio (Londring) Martinez is that on May 28, 1967, he was at Sto. Tomas, Pangasinan. He slept at about 7:00 p.m. that night and woke up at 5:00 in the following morning. He was with his wife and six children. He did not know of Barrio Salagusog, Cuyapo, Nueva Ecija. He did not know the victim Cabangcala and his wife. He did not know the policeman Rufino de Gracia and Lauro Alcantara. He did not know anything about Exhibit "G". He came to know Lauro Alcantara only at the Cabanatuan jail and Ambrocio Sumalbag only in July, 1968 in the court during trial, both of them being unknown to Martinez on May 28, 1967.[25]

Accused Ambrocio Sumalbag, as a landholder with three carabaos and eighteen cows, claimed that on May 28, 1967, as a barrio councilor of Sinimbaan, Cuyapo, Nueva Ecija, and a confidential agent of the governor, he slept at his house at Sinimbaan on May 28, 1967, with his wife and three children. He slept at around 9:00 p.m. and woke up at 4:00 the next morning. Goats, pigs and chickens were also cared for by Sumalbag. Barrio Salagusog is 4 kilometers away from Barrio Sinimbaan. He knew the victim Cabangcala and trusted him. He voluntarily surrendered on January 30, 1968.[26]

On page 5 of the Decision[27] the trial court stated that accused Ricarte Obedoza made a sketch[28] pointing the positions of his companions during the commission of the crime. Appellants correctly contend that it was not Obedoza who prepared that sketch but Police Sergeant Rufino de Gracia of the Cuyapo Police Force.[29] Said sketch Exhibit "G" was signed by Sgt. de Gracia only on October 23, 1968, when he testified in court.[30] The conformity of accused Lauro Alcantara and Ricarte Obedoza to Exhibit "G" were never obtained and they did not sign Exhibit "G". Accused Alcantara denied any knowledge of Exhibit "G". Whatever mention of the accused in Exhibit "G" appears to be the narration and view of the Police Sergeant De Gracia and cannot be considered admission of its veracity on the part of the accused. The probative value of Exhibit "G", being hearsay, is nil.[31]

Accused appellants contend that the trial court committed a grave error when it concluded that failure to object to the extra-judicial confessions of Alcantara and Obedoza[32] made those confessions admissible against the accused Ambrocio Sumalbag and Londring Martinez.

The trial court stated clearly that from the evidence presented by the prosecution the only evidence against the accused consists of the extra-judicial statements of Ricarte Obedoza and Lauro Alcantara and that those confessions are the only evidence proving the direct participation of the accused in the crime.[33]

It appears crystal clear from the record that counsel for accused appellants never cross-examined prosecution witness Sgt. de Gracia in connection with the alleged extra-judicial confessions of Laura Alcantara and Ricarte Obedoza. No questions were asked on the substance of Exhibits "F", "H", and "G".[34] The same thing happened during the cross-examination of prosecution witness Police Lt. Casimiro Aguinaldo, wherein the counsel for accused-appellants never cross-examined the witness on the supposed confession made by Obedoza in Exhibit "H".[35]

Moreover, it appears of record that counsel for accused-appellants questioned the purpose of presenting extra-judicial confession, Exhibit "H", as inadmissible against the other accused.[36] The same objections were

made to the presentation of Exhibits "F" and "G", as not admissible against the other accused.[37]

The aforementioned circumstances conclusively show, that contrary to the trial court's finding and conclusion embodied in the decision, the accused-appellants objected to the extra-judicial confessions of Alcantara and Obedoza[38] in so far as their admissibility against them are concerned. It is, therefore, correct, as the trial court stated that said confessions of Alcantara and Obedoza,[39] being hearsay with respect to accused Ambrocio Sumalbag and Londring Martinez, are not admissible against them. We have to consider also that the voluntariness and veracity of the contents of said confessions are in grave doubt.

The supposed confession of Alcantara[40] was allegedly extracted by force and threats from the accused. He claimed that he was taken to the cemetery of Cuyapo, subjected to "liquid" treatment and threatened by Major Servando and Rufino de Gracia to confess otherwise he would be eliminated.[41] The trial court concluded that the confessions must be considered voluntarily given because it contained details that could not have been supplied by non-participants in the crime. Contrariwise, the said details were already known to the police before the investigation of the accused because the crime happened in May of 1967, while the accused were investigated in October of the same year. It is to be taken into account that accused Alcantara is illiterate. He was not represented by counsel during the investigation. Apparently, he signed voluntarily the confession before the municipal judge, but he stated that he was threatened to be killed by Major Servando if he did not. The mere fact that he did not reveal the threat of Major Servando to the Municipal Judge is not conclusive that it was not true, as Alcantara might have been cowed into silence by such effective threat coming from persons who could enforce it.

An examination of Exhibit "F",[42] written in English, without any translation to Ilocano, the dialect known to Alcantara, places in doubt the voluntariness of said confession as it enhances the credibility of Alcantara's claim that he did not know the contents of said confession and he was not the one who gave those answers contained therein.

Under the above circumstances, We cannot but have serious doubts as to the voluntariness of the alleged confession of accused Alcantara. No probative value can be given to such alleged confession, especially since it will serve as the only basis for conviction beyond reasonable doubt.

In so far as the supposed confession of Obedoza[43] is concerned, it cannot have probative value against accused-appellants, not only because of its being hearsay, with respect to accused Sumalbag and Martinez, but also due to the fact that its veracity is also in doubt as Obedoza was never brought to trial in this case. The trial court, itself, cannot understand why Quines Linda, supposed to be with the group, was not included as an accused.[44]

Regarding the finding of the trial court that the ability of the accused Ambrocio Sumalbag to help in the recovery of stolen animals corroborated the confessions of Lauro Alcantara and Ricarte Obedoza that he participated in the crime. We cannot uphold such reasoning. We have to consider that accused Sumalbag helped in the recovery of stolen animals, not in the stealing of the animals, that he was able to do so because he was then a barrio councilor and a confidential agent of the governor. Whatever good thing he did in the recovery of stolen animals cannot be utilized against him contrary to the presumption of good faith in his acts.

As both confessions of Alcantara and Obedoza suffer from serious doubts from the point of view of voluntariness and credibility, no evidence exists to support conviction of the accused, in accordance with the very pronouncement of the trial court in its decision.[45]

The requirements of evidence beyond reasonable doubt or moral certainty for conviction have not been met and no alternative exists but to reverse the judgment of conviction.

WHEREFORE, the decision dated March 26, 1968 should be, as it is hereby, REVERSED and SET ASIDE with respect to the herein appellants, and another one entered, acquitting the appellants Ambrocio Sumalbag and Londring Martinez of the charge against them. With costs de oficio.

SO ORDERED.

Barredo, (Chairman), Abad Santos, and De Castro, JJ., concur.
Aquino, J., in the result.

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- [1] Exh. "I"; pp. 253-254, original Record, Criminal Case No. 414-G, CFI, Nueva Ecija, Guimba.
- [2] Exhibits "B", "C", "D", "E".
- [3] Exhibits "F", "F-1-F-5".
- [4] pp. 255-256, original Record, Criminal Case No. 414-G.
- [5] Exhs. "H", "H-1" to "H-6"; pp. 258-259, Original Record.
- [6] p. 1, Original Record.
- [7] p. 58, Original Record.
- [8] pp. 62-63, Original Record.
- [9] p. 260, Original Record.
- [10] p. 272, Original Record.
- [11] p. 8, t.s.n., September 11, 1968.
- [12] p. 9, t.s.n., September 11, 1968.
- [13] Exhs. "F", "F-1" to "F-5", pp. 13-17, Original Records.
- [14] pp. 9-10, t.s.n., September 11, 1968.
- [15] Exhs. "H", "H-1" to "H-6", pp. 19-25, Original Record; pp. 10, 18-19, t.s.n., Sept. 11, 1968.
- [16] Exhs. "G", "G-1" to "G-18", p. 12, Original Record.
- [17] pp. 1, 39, 62-63, Original Record.
- [18] pp. 2-4, t.s.n., September 11, 1968.
- [19] pp. 5-6, 6-7, t.s.n. September 11, 1968.
- [20] pp. 8-14, 18, 19, t.s.n., September 11, 1968.
- [21] pp. 1-3, t.s.n., August 15, 1968.
- [22] Exhs. "F", "F" to "F-6".
- [23] pp. 2, 3, 4, 5, t.s.n., November 11, 1968.
- [24] pp. 6-9, t.s.n., November 11, 1968.
- [25] pp. 12-14, t.s.n., December 10, 1968.

[26] pp. 16-18, t.s.n., December 10, 1968.

[27] p. 257, Original Record.

[28] Exhibit "G".

[29] p. 11, t.s.n., September 11, 1968.

[30] p. 13, t.s.n., October 23, 1968.

[31] People vs. Cabral, 58 Phil. 546.

[32] Exhibits "F" and "H".

[33] p. 266, Original Record.

[34] pp. 14-17, t.s.n., October 23, 1968.

[35] p. 19, t.s.n., October 23, 1968.

[36] p. 18, t.s.n., October 23, 1968.

[37] p. 20, t.s.n., October 23, 1968.

[38] Exhibits "F" and "H".

[39] Exhibits "F" and "H".

[40] Exhibit "F".

[41] pp. 2-9, t.s.n., November 11, 1968.

[42] pp. 13-18, Original Record.

[43] Exhibit "H".

[44] p. 260, Original Record.

[45] p. 266, Original Record.

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