

ANTONIO CUDIAMAT Y ANGANGAN, PETITIONER, VS. PEOPLE OF THE PHILIP-PINES, HON. EMILIO A. GANCAYCO, VENICIO ESCOLIN, AND LORENZO RELOVA (JUSTICES OF COURT OF APPEALS, 7TH DIVISION...*G.R. No. L-47753. July 25, 1978*

Ponente: FERNANDO, J.

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The invocation of the expanded constitutional right against self-incrimination does not avail petitioner, who seeks a reversal of the Court of Appeals decision convicting him of homicide, the sentence imposed being six years and one day of prision mayor as minimum to twelve years and one day of reclusion temporal as maximum. It is true that as now worded, the Miranda^[1] doctrine as to the inadmissibility of a confession during custodial interrogations has been incorporated in the Constitution.^[2] Counsel for petitioner failed to take into account, however, that as held in *Magtoto v. Manguerra*,^[3] the inadmissibility of such confessions attaches only to such as are obtained after the present fundamental law took effect on January 17, 1973. The statement of petitioner as a suspect in the killing of one Benjamin Angangan was subscribed before a municipal judge^[4] as far back as December 16, 1963. The brief for petitioner is quite insistent on interpreting the Constitution to make it cover such confessions. Such an approach shows partiality for the stand taken by the dissenters, one of whom is the writer of this opinion.^[5] Unfortunately for petitioner, a majority of the Court en banc was of a different mind, and their view must be followed. So, the rule of law commands. With a finding of fact, moreover, by respondent Court of Appeals^[6] that such confession was voluntary and with the evidence for petitioner failing to demonstrate that he acted in self-defense, the decision sought to be set aside must be affirmed and this petition for review denied.

The circumstances under which petitioner made his confession were set forth by Justice Escolin as ponente in the appealed decision thus: "Municipal Judge Francisco Camarillo of Banayoyo, Ilocos Sur, before whom Exhibit B was sworn to, testified that when the appellant was brought to him by PC Capt. Paranis at 9:00 in the morning of December 10, 1963, he read the statement (Exhibit B) to the appellant, translating the same in the Ilocano dialect; that after the appellant answered in the affirmative that he was willing to sign the statement, he raised his hand, swore to the truth of its contents, and then affixed his signature thereto. Judge Camarillo declared further that because of the gravity of the offense committed, he propounded additional questions to the appellant in the vernacular; and the questions and the answers thereto were incorporated as an addendum (Exhibit B-2) to the main statement (Exhibit B)."^[7]

This petition for review, as mentioned at the outset, must be denied.

1. It is undisputed that petitioner did not have the benefit of counsel at the time the confession was made. That is, to repeat, the principal basis for his plea for reversal. Citing the aforesaid *Magtoto* decision, Justice Escolin disposed of such a contention in this wise: "Equally untenable is the appellant's contention that his extrajudicial confession is inadmissible in evidence because he was not informed of his right to counsel. It is a settled rule that

a confession obtained from a person under investigation for the commission of an offense, who has not been informed of his right to counsel, is admissible if the same had been obtained before the effectivity of the New Constitution on January 17, 1973." [8] That is to conform in language of similar import to the ponencia of retired Justice Estanislao Fernandez, speaking for this Court in *Magtoto*: "We hold that this specific portion of this constitutional mandate has and should be given a prospective and not a retrospective effect. Consequently, a confession obtained from a person under investigation for the commission of an offense, who has not been informed of his right (to silence and) to counsel, is inadmissible in evidence if the same had been obtained after the effectivity of the New Constitution on January 17, 1973. Conversely, such confession is admissible in evidence against the accused, if the same had been obtained before the effectivity of the New Constitution, even if presented after January 17, 1973, and even if he had not been informed of his right to counsel, since no law gave the accused the right to be so informed before that date." [9] The principal error assigned is, therefore, bereft of support in law.

2. It is a notable feature of the *Magtoto* opinion that there was a reaffirmation of the cardinal principle that confessions which are not based on one's free will must be rejected. Thus: "Even as We rule that the new constitutional right of a detained person to counsel and to be informed of such right under pain of any confession given by him in violation thereof declared inadmissible in evidence, to be prospective, and that confessions obtained before the effectivity of the New Constitution are admissible in evidence against the accused, his fundamental right to prove that his confession was involuntary still stands. Our present ruling does not in any way diminish any of his rights before the effectivity of the New Constitution." [10] Unfortunately for petitioner, such basic doctrine does not bolster his plea for reversal. The Court of Appeals found as a fact that the confession was not involuntary. To quote from Justice Escolin's opinion: "We do not entertain any doubt that the appellant's admissions in his extrajudicial statement, Exhibit B, were given freely and voluntarily. Upon its face, Exhibit B betrays no sign of any suspicious circumstance tending to cast doubt upon its veracity. The incident was recounted with spontaneity; and the answers to the questions propounded are fully informative and even exculpatory in tone. The act of Judge Camarillo in propounding additional questions to the appellant is assailed as 'illegal, highly anomalous and patently irregular.' We are not aware of [any] law or rule, and none has been cited by the appellant, which prohibits a municipal judge from asking clarificatory questions from an affiant for the purpose of ascertaining the voluntariness and veracity of an affidavit presented to him for verification. It is noteworthy that Judge Camarillo propounded his questions to the appellant, thus giving him the opportunity to retract his admissions in Exhibit B or to correct any mistakes or misstatements therein, if there were any. As correctly observed by the trial court - 'The integrity and [fidelity] to truth of witness, Judge Francisco Camarillo, has never been impeached nor even the least slanted that would cast doubt as to the good intention that impelled him to undertake [these] inquiries on the accused that lead to the taking of the addendum.'" [11] Such finding of fact is entitled to respect.

3. Even if credence be accorded to the argument of petitioner that his confession ought not to have been admitted, still there would be no justification for his acquittal. There was no question as to his inflicting the wounds which caused the death of the victim. There was no question as to the mode and manner in which the aggression occurred. Necessarily, the judgment called for, independently of whether or not he did confess, was one of conviction. As was pointed out in the appealed decision: "The appellant's plea of self-defense must be proved by clear and sufficient evidence; and in this task the appellant failed." [12] His testimony lacked corroboration. Moreover, Justice Escolin stressed that petitioner "emerged from the encounter completely unscathed, * * * " [13] He referred likewise to "the number of the wounds sustained by the victim." [14] Petitioner's claim, therefore, that he perpetrated the act to save himself lacks persuasiveness. It is not to be lost sight of that the plea of self-defense is an affirmative allegation which must be proved by the accused with sufficient evidence. It should be

satisfactorily established.[15] It is well-nigh impossible to believe that there was a peril to the life of petitioner, considering that he was able to inflict eleven wounds on the deceased, without himself being injured in any way. To so assert, considering such circumstances, is not merely to strain human credulity but to shatter it. It is not surprising that decisions of this Court had given decisive weight to such eloquent proof of culpability and thus rejected the plea of self-defense.[16]

WHEREFORE, this petition for review of the Court of Appeals, Seventh Division, promulgated on May 27, 1977 is denied. The judgment of conviction against petitioner, the penalty imposed being 6 years and 1 day, of prison mayor as minimum to 12 years and 1 day of reclusion temporal stands. No costs.

Barredo, Antonio, Aquino, Concepcion, Jr., and Santos, JJ., concur.

[1] 384 US 436 (1966).

[2] Article IV, Section 20 of the Constitution reads: "No person shall be compelled to be a witness against himself. 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."

[3] L-37201-02, March 3, 1975, 63 SCRA 4.

[4] Municipal Judge Francisco Camarillo of Banayoyo, Ilocos Sur.

[5] The other two dissenters are the present Chief Justice Castro and Justice Teehankee. As a matter of fact, Chief Justice Castro went further, relying on Article 125 of the Revised Penal Code (1932).

[6] Counsel for petitioner named as respondents Justices Emilio A. Gancayco, Venicio Escolin, and Lorenzo Relova, composing the Seventh Division of the Court of Appeals.

[7] Decision, Annex C to Petition, 3-4.

[8] Ibid, 6.

[9] 63 SCRA 4.

[10] Ibid, 21.

[11] Decision, Annex C to Petition, 5-6.

[12] Ibid, 8.

[13] Ibid, 9.

[14] Ibid.

[15] Cf. *United States v. Bunsalan*, 9 Phil. 571 (1908); *United States v. Bardelas*, 16 Phil. 46 (1910); *United States v. Rivera*, 41 Phil. 472 (1921); *People v. Nanquil*, 43 Phil. 232 (1922); *People v. Cruz*, 47 Phil. 509 (1925); *People v. Apolinario*, 58 Phil. 586 (1933); *People v. Dimayuga*, 58 Phil. 599 (1933); *People v. Gimena*, 59 Phil. 509 (1934); *People v. Zamora de Cortez*, 59 Phil. 568 (1934); *People v. Ramos*, 77 Phil. 4 (1946); *People v. Bareden*, 77 Phil. 105 (1946); *People v. Griar*, 84 Phil. 64 (1949); *People v. Tenorio*, 86 Phil. 427 (1950); *People v. Aguilar*, 88 Phil. 693 (1951); *People v. Solaño*, 116 Phil. 383 (1962).

[16] Cf. In *United States v. Gonzales*, 8 Phil. 442 (1907) as well as *People v. Diaz*, 59 Phil. 769 (1934), ten wounds were inflicted; in *United States v. Bongnola*, 31 Phil. 564 (1915), eight in *United States v. Rivera*, 41 Phil. 472 (1921) and *People v. Samonte*, 48 Phil. 894 (1926), fourteen. *People v. Somera*, 83 Phil. 548 (1949) was rather an extreme case, with nineteen wounds inflicted. For that matter in *United States v. Bumanglag*, 14 Phil. 644 (1909), *People v. Ragaza*, 46 Phil. 266 (1924), *People v. Narvaes*, 59 Phil. 738 (1934), *People v. Ramos*, 77 Phil. 4 (1946), and *People v. Carlos*, 115 Phil. 704 (1962), three wounds sufficed for a judgment of conviction. The number was even reduced to two in *People v. Roxas*, 58 Phil. 753 (1933), *People v. Moldes*, 61 Phil. 1 (1934), *People v. Pasederio*, 101 Phil. 951 (1951), and *People v. Elumba*, 106 Phil. 581 (1959).

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