

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROMAN JUGILON, AMANCIO BALATAYO AND CRISPIN JAVIER,
DEFENDANTS-APPELLANTS.***G.R. No. L-25668. May 02, 1968*

Ponente: BENGZON, J.P., J.

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Sometime in the night of May 26, 1960, an aged couple, Estanislao Jugilon, 90 years old, and Emiliana Puyod, 85 years old, became the victims of a robbery-killing. Said couple, sleeping alone in their house at sitio Sandayong, barrio Casul, municipality of Sapang Dalaga, province of Misamis Occidental, were beaten with a club and/or a ball hammer, causing their subsequent death. Some money in the amount of P800.00, more or less, were taken from their place, i.e., their trunk, bamboo tubes filled with coins and a small cotton bag.

Report of the crime reached Rosalio P. Ho, the Chief of Police of Sapang Dalaga, in the morning of May 27, 1960. The Police Chief, accompanied by the municipal judge, the municipal health officer, PC soldeirs and po-licemen, went to the scene of the crime.

Arriving at around 10:30 A.M., the Police Chief and his companions found inside the aforementioned house, Estanislao, already dead and in partial rigor mortis; Emiliana, however, was found still alive, but unconscious. Five minutes later, she died.

Nobody was arrested for the said offense. Almost one and a half years later, on October 28, 1962, one Crispin Javier was arrested for theft of coconuts. The Po-lice Chief, however, acting on a suspicion, investigated him about the robbery-killing of the aged couple, imputing the crime against him. Said investigation resulted in the signing by Crispin Javier of an affidavit dated October 30, 1962, Exhibit "H".

In said affidavit, Crispin Javier declares in subs-tance as follows:

One night, about the end of May 1960, Crispin was awakened by Roman Jugilon who asked him to accompany the latter. Roman was carrying a cane (garote) and had a hammer tucked in his waist. They left Roman's house and passed by the house of one Onyot where Amancio Balatayo joined them. The three of them proceeded towards the house of the old couple, Estanislao Jugilon and Emiliana Puyod. Crispin was not told of their purpose. When they arrived at the place, Roman Jugilon went up the porch (pantawan), climbed the make-shift window of woven coconut leaves and entered the house. Crispin was told to stay downstairs. Once inside, Roman Jugilon lighted a lamp and placed it on the bench. Crispin Javier was down-stairs and peeping through a crack in the walls, he saw Roman Jugilon hit several times with the cane the old man and old woman. Then he opened the door and admitted Amancio Balatayo, who was then at the porch, to whom he handed the cane with which Amancio Balatayo immediately beat the old woman several times. Roman drew from his waist the hammer and hammered the old man on his face and head. Crispin did not count how many times. He was very scared and was seized by an overwhelming fear. After beating the couple, Roman and Amancio carried the old man and laid him on the wooden bench below the window, leaving the old woman where she lay beaten up.

Afterwards, the two entered the room and Roman Jugi-lon hammered the trunk. After the lid was pried open, Amancio withdrew from it bamboo tubes and poured the contents - silver coins - on the floor. Roman went to the unconscious old woman and untied a cotton bag from her waist. He transferred the lamp from the bench to the floor and poured the contents of the cotton bag near the pile of silver coins from the bamboo tubes. Roman and Amancio started to count the money, the amount of which Crispin did not know. After counting the money, they came down and Roman told him he will have a share but he refused to receive any, and because he refused, Roman warned him not to tell anybody or else they will kill him. He asked Roman why he killed the old couple and Roman told him not to report because the coconut plantation is already his.

They parted. Amancio Balatayo and Roman Jugilon went up the hill while he went down the hill. He slept under a certain house on an empty sack and the following morning he took a boat to Manla.

A week later Roman went to see him at Manla and asked him if he told anyone of the incident. Upon his assurance that he did not, Roman suggested that he go with the latter. Fearful of his safety, he consented. Roman said it is well and good that he go along as he will help in the harvesting of coconuts and the making of copra in the land of Amancio. He went with Roman and since then until Sunday, October 28, 1962, he lived in the house of Roman Jugilon in Libertad, Sapang Dala-ga (Exhibit "H").

Subsequently, on October 31, 1962, Amancio Balatayo and Roman Jugilon were arrested. These two were investigated on the robbery-killing aforementioned. Amancio Balatayo wrote down an affidavit, dated November 2, 1962, Exhibit "I", stating that:

He is a very close friend of Roman Jugilon. On one occasion, Roman Jugilon told him "Let us kill the old couple because their nephews are giving me trouble." He chose him as companion in the plot because they are friends. After they had agreed to kill the old couple they walked towards the house where he lives and Amancio went up and did not go down any more. The following day the old couple were dead and Roman told him so. Roman Jugilon shouldered all the burial expenses including the tomb. A man named Crispin Moros (Javier) went to live with Roman after the death of the old couple. Roman assigned him as helper in making copra on their coconut land. It was because of this occasion that he [Roman] was able to tell Amancio that the old couple were killed and that P800.00 were taken (Exhibit "I").

And later, Balatayo signed an additional affidavit, also dated November 2, 1962, Exhibit "1-4", in the office of the Provincial Fiscal, stating, as follows:

Roman Jugilon and Crispin Javier were investigated on November 1, 1962 by the Chief of Police of Sapang Dalaga and he [Amancio] heard Roman Jugilon declare that he was the one who killed the two old couple, Estanislao Jugilon and Emiliana Puyod at Sandayong, Casul, Sapang Dalaga, on May 26, 1960; that Roman Jugilon admitted before the Chief of Police that he struck the head of the old couple with a piece of wood; that he killed the spouses because the nephews of the old couple were bothering him in the division or partition of the coconut land; furthermore, Roman Jugilon declared before the Chief of Police that he took money from the house of the old couple after they were killed, amounting to P800.00, contained in a tin can, bamboo tubes and in a small cotton bag and consisting of silver coins and paper money; that Roman has taken a bigger bag from the trunk, untied the cotton bag from the waist of the old woman and took the bamboo tubes which were buried among the millet or cereal; that these admissions of Roman were voluntary as he was not maltreated, forced or promised anything; and that Roman Jugilon confessed and made a clean breast of it because Crispin Javier had made his statement and Amancio had revealed what Roman had done. (Exhibit "I-4")

On the strength of these aforementioned affidavits and other evidence, Roman Jugilon, Amancio Balatayo and Crispin Javier were prosecuted for the robbery with double homicide committed against the aged spouses. At the

trial, the accused repudiated the foregoing affidavits, asserting that the same were obtained thru force and intimidation, and that the statements therein are not true but were provided by the Police Chief. In addition, Crispin Javier and Amancio Balatayo interposed alibi, the former stating that at the time in question he was in Dapitan, Zamboanga del Norte, and the latter, that he was in Cebu City.

After the trial, on October 7, 1965, the Court of First Instance of Misamis Occidental rendered its decision, finding all three accused guilty as charged upon the basis of their so-called extrajudicial confessions and proof of corpus delicti. The dispositive portion thereof ran as follows:

"IN VIEW OF THE FOREGOING and premises considered, pursuant to the provisions of Article 294 of the Revised Penal Code taken together with the provisions of Article 64 paragraph 7 of the same code, sentences [sic] Roman Jugilon, Amancio Balatayo and Crispin Javier to RECLUSION PERPETUA, to indemnify the heirs of the deceased the sum of P12,000.00 jointly and severally, to suffer the other accessory penalties provided for by law and to pay the costs.

"SO ORDERED."

Appeal to this Court thereupon resulted.

The record discloses no evidence advanced to prove the guilt of any of the accused other than the so-called confessions of said accused.

Testimony was adduced - thru the witness Erlinda Jugilon - to the effect that Roman Jugilon, grand nephew of the deceased, had threatened to kill them that afternoon of the day they were killed due to some misunderstanding on the sharing of the crops of the land, as the old folks wanted Roman to give a share to their grand niece Erlinda Jugilon, but Roman allegedly was opposed to the idea. Furthermore, Roman had a deed of sale in his favor over the land of the old folks, and the latter were only given the use thereof until their death. Apparently there is motive and basis to suspect Roman. However, these are far from enough to convict him. This does not prove he had a hand in the robbery-killing.

For this, the prosecution and the court a quo relied on the so-called extrajudicial confessions of Crispin Javier and Amancio Balatayo (Exhibits "H", "I" and "I-4"). These extrajudicial declarations, which were repudiated at the trial, cannot be taken against Roman Jugilon, for they are hearsay as to him. Assuming they are confessions, a confession is admissible only against the declarant.[1] Neither can they be considered as declarations of co-conspirators; there was no proof aliunde of the conspiracy and, above all, these declarations were not made in the course of the execution of the offense but long afterwards.[2] As far as Roman Jugilon is concerned, they should therefore be totally disregarded, for being hear-say.

Roman Jugilon himself did not admit participation in the offense. He executed no affidavit. Roman Jugilon's verbal statement during the investigation, as reported by the Police Chief who investigated him, was mere-ly: "Please, Chief, help me in this matter." (TSN, Nov. 12, 1964, p. 56) This is not a positive and categorical admission of guilt of the offense. It could even be a plea of innocence. It certainly cannot be deemed a confession. The record shows only one witness who claims that Roman Jugilon categorically said he killed the old couple: Bonifacio Arocha. This witness allegedly was passing by near the municipal building in the evening of November 1, 1962 when the investigation was conducted and as an on-looker he heard Roman Jugilon say: "Chief, help us, we were the ones who killed the old folks." (TSN, June 4, 1964, p. 26) Said witness, however, said on cross-examination that he was sixteen feet away from the Police Chief who was then conducting the investigation on the porch of the municipal building (TSN, Ibid., pp. 41-42). Arocha's version of what Roman said is therefore doubtful and that of the Police Chief shows no confession. And, finally, it is claimed that Roman Jugilon was showed the affidavit of Amancio Balatayo and after reading it he acknowledged the same to

be true but said he will first consult his lawyer (TSN, Nov. 12, 1964, p. 59). Said affidavit referred to, however, is the first one handwritten by Amancio Balatayo, Exhibit "I" (TSN, Ibid., p. 22), and not the second one, Exhibit "I-4"; the first affidavit merely said that Amancio and Roman had agreed to kill the old folks; it does not state that they in fact did so; it was the second affidavit which stated that Roman was heard by Amancio to have admitted during the police investigation that he, Roman, killed the old folks. Roman's admission that the contents of the first affidavit are true, therefore, does not amount to admission on his part that he killed the old couple.

As to Amancio Balatayo, his two affidavits cannot be deemed a confession; there is nothing therein that states that he took part in the robbery or killing in question. The Police Chief, in his testimony, said that Amancio told Roman that he better confess that they "were the ones." (TSN, Nov. 12, 1964, p. 55) Again, this does not clearly show admission of his own guilt by him; he merely told Roman that it is better for him to confess that they were the ones; Roman did not confess. We cannot take this urging by Amancio for Roman to confess that they were guilty, as a confession by Amancio that he was guilty. A confession must come from the declarant, positive-ly admitting his own guilt to the offense.

Coming to Crispin Javier, his affidavit is not only short of a confession, but would clearly exculpate him; it says he was asked to come along but he was not told of the evil purpose; that at the house of the old folks, he was ordered to wait downstairs, and he did nothing to help the other accused as they allegedly committed the robbery-killing upstairs. Again, while his affidavit imputes the crime on his co-accused, it would absolve himself. As stated, the imputation against the others are inadmissible as hearsay. The affidavit not containing any admission that the affiant took part in the robbery-killing, it is not a confession and cannot be relied upon to convict the affiant.

Appellants, brief - it should also be mentioned - asserts, and appellees brief does not deny, that in Criminal Case No. 6274, entitled People vs. Francisco Limonera, et al., for robbery, filed in the Court of First Instance of Misamis Occidental, the same Chief of Police who conducted the investigation herein, extracted a confession from a suspect who later turned out upon further investigation to have been confined at the Davao Penal Colony at the date of the robbery, prompting the provincial fiscal to dismiss the case (Appellants' brief, p. 13).

All told, therefore, in the present case, the con-viction, predicated on so-called confessions, cannot be sustained, because there was in fact no confession, the declarant therein at most merely imputing the guilt on the others, not on himself. As the record contains no other evidence against the accused to show that they in fact robbed and killed the deceased, their guilt cannot be deemed established beyond reasonable doubt.

WHEREFORE, the judgment appealed from is hereby reversed, and the three accused-appellants are acquitted, on reasonable doubt. Costs de oficio.

SO ORDERED.

Reyes, J.B.L., (Acting C.J.), Dizon, Makalintal, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

[1] Sec. 29, Rule 130, Rules of Court.

[2] Sec. 27, Rule 130, Rules of Court.

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