

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
TOMAS BAGASALA, JUANITO BAGASALA, ANICETO RONAN,
SALVADOR RONAN AND ANICETO REX, DEFENDANTS, JUANITO
BAGASALA, DEFENDANT-A...**

G.R. No. L-26182. May 31, 1971

Ponente: FERNANDO, J.

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FERNANDO, J.:

The plea of appellant Juanita Bagasala for the reversal of his conviction for the crime of robbery with homicide and serious physical injuries is based on the insufficiency of the proof to demonstrate his guilt beyond reasonable doubt as the confession attributed to him was allegedly obtained by means of torture and the infliction of body injuries and there was not enough testimonial evidence to justify the finding that he was liable for the crime committed. The information for the above offense was filed against five accused, but only Tomas Bagasala and Juanita Bagasala were adjudged guilty.[1] An appeal was duly taken to this Court by both of them, but Tomas Bagasala having escaped from the provincial jail on March 24, 1966, his appeal was dismissed.[2] Juanito Bagasala is thus the sole appellant. As will hereafter be shown, his contention that an extra-judicial confession was involuntary, having been extorted by force, must be given credence. He is not, however, entitled to an acquittal, as the oral testimony contrary to his assertion did clearly point him as one of the perpetrators of the offense charged. The conviction cannot be reversed.

The tragic occurrence took place on June 10, 1961. At about 2:00 o'clock that morning, Macario Ongkit and his wife, Juliana Reginaldo, were asleep in their house in Barrio Cadlan, Pili, Camarines Sur. They were awakened by the barking of their dog. Macario stood up and armed himself with his bolo and an iron pipe. Proceeding to the sala, he saw five men entering his house through the doors leading to the veranda as well as the kitchen.[3] In no time at all, one of them, recognized by him as appellant Juanito Bagasala, wrested the iron pipe. Another, Tomas Bagasala, in turn sought to take away from him his bolo. Iron pipe in hand, appellant was heard by Ongkit demanding from his wife, Juliana Reginaldo, her key, prompting her to exclaim: "Juanita, why are you doing this to us?" This was followed by her plea for help, as she was beaten up with such weapon.[4]

Tomas Bagasala in turn succeeded in relieving Ongkit of his bolo and to use it against, the latter, wounding him on the back of his head and thus causing him to fall to the floor. It was not until almost dawn that morning that he regained consciousness. His son, Rafael, was then attending to his wounds. He was asked by his father to report what happened to the authorities. Ongkit was then taken to the provincial hospital in Naga City so that he could receive medical care. He likewise testified that of the raiding party of five, he could identify only appellant and Tomas Bagasala. On the occasion of such robbery, he suffered a loss of one sack of rice valued at ten pesos.[5]

With the incident being reported to the Philippine Constabulary at Naga City on the same morning, two sergeants[6] and two corporals[7] were directed to investigate the occurrence. Upon their arrival, what greeted them at the scene of the crime at 10:00 o'clock that morning were the lifeless body of the wife, Juliana Reginaldo,

lying flat on the floor, the iron pipe and the bolo stained with blood.[8] They were told by the son, Rafael Ongkit, that his father was in the provincial hospital in Naga City. Proceeding to said place, Ongkit pointed to appellant and Tomas Bagasala with three other persons who were responsible for the killing and the robbery.[9] Acting on this information, they brought the two to the hospital where they were readily identified by Ongkit as the perpetrators.[10] The death of the wife, according to the doctor who performed the autopsy, was due to the "acute internal and secondary hemorrhage, because of the multiple wounds on the head and fracture of the skull." [11]

The oral testimony of Macario Ongkit, in the opinion of the lower court, was "corroborated and strengthened by the [extra-judicial statement] under oath" of appellant Juanito Bagasala wherein it was admitted that he was among the group of five persons who went to the house of the Ongkit spouses precisely for the purpose of taking away the palay stored therein.¹² There was thus a rejection of the claim made that such confession was involuntary. The defense of alibi put up by appellant was rejected in view of the positive identification. Hence his conviction for the crime of robbery with homicide and serious physical injuries, being sentenced to pay the heirs of Juliana Reginaldo the amount of P5,000.00 and to pay Macario Ongkit the amount of P10.00 representing the value of the palay.

If the conviction of appellant were predicated solely on the confession, he would be entitled to acquittal, his attack on its voluntary character having support in the evidence of record. There is, however, sufficient basis for the finding of guilt as the testimonial evidence is sufficiently weighty and the defense of alibi utterly unconvincing.

1. The Constitution in its Bill of Rights explicitly guarantees: "No person shall be compelled to be a witness against himself."¹³ There is thus a safe-guard against the compulsory disclosure of incriminating facts. It does not bar, as Justice Tuason pointed out, the conviction of an accused "on a voluntary extrajudicial statement * * *."¹⁴ Certainly, however, where the confession is involuntary, being due to maltreatment or induced by fear or intimidation, there is a violation of this constitutional provision. Any form of coercion whether physical, mental, or emotional thus stamps it with in-admissibility. What is essential for its validity is that it proceeds from the free will of the person confessing.

This is the prevailing principle even prior to the Constitution. Both under the Philippine Bill of 1902 and the Philippine Autonomy Act of 1916 as well as a statute enacted in 1903, there is the requirement that a confession to be received as evidence must be shown to be freely and voluntarily made and not the result of violence, intimidation, threat, menace, or promise or offer of reward or leniency.¹⁵ Why it should be thus was explained in an early leading case: "Involuntary confessions are rejected by all courts — by some on the ground that a confession so obtained is unreliable; and by some on the grounds of humanitarian principles which abhor all forms of torture or unfairness toward the accused in criminal proceedings. But either theory arrives at the same goal. Such a confession is not legal evidence and must be rejected. If the accused satisfactorily shows that it was made involuntarily, the confession stands discredited in the eyes of the law and is as a thing which never existed."¹⁶ Such a thought finds expression in an even earlier decision, *United States v. Navarro*,¹⁷ promulgated in 1904. Thus: "The provision, that no one is bound to criminate himself is older than the Government of the United States. At an early day it became a part of the common law of England. It was established on the grounds of public policy and humanity — of policy because if the party were required to testify, it would place the witness under the strongest temptation to commit the crime of perjury, and of humanity, because it would prevent the extorting of confessions by duress."¹⁸

It is no surprise then that where there was ample basis in a habeas corpus proceeding for petitioner's contention as to the signature on his confessions in the eight cases where he did plead guilty being due to his desire to avoid any further torture or maltreatment, this Court, through Justice Perfecto reached this conclusion: "The facts proved by petitioner convince us that the sentences rendered in the eight cases in question are null and void and should not

be given an effect."¹⁹ As a result, the release from confinement of petitioner was ordered. Then, too, in line with this controlling doctrine, there is this relevant excerpt from an opinion of Justice Labrador: "We cannot close our ears to the stories of maltreatment used to extort the confession in question. Courts are not unaware that some officers of the law resort to illegal and reprehensible tactics to extort confessions, and had had occasions to express condemnation of such tactics."²⁰

It is unfortunate that the lower court failed to abide by the authoritative doctrines that ban the use of involuntary confessions in accordance with the constitutional provision against self-incrimination which, in the language of Justice Sanchez, should be "mandatory", being "a valuable and substantive right".²¹ Appellant testified that on June 10, 1961, while he was being investigated at the constabulary barracks, he was boxed repeatedly in different parts of the body, at one time made to lie down after being blind-folded and then Water poured on his face.²² He repeated that before signing the confession on June 13, 1961, he was like-wise subjected to physical maltreatment, having been boxed many times on the breast and stomach.²³ His testimony received confirmation from a competent and neutral source, Dr. Pedro Villafuerte, the city health officer of Naga, who examined appellant on June 27, 1961 in the provincial jail of Camarines Sur seventeen days after his being apprehended and taken to the constabulary barracks. When asked what he found on the person of appellant, this was his answer: "He has five lesions here. Tenderness of the stomach on the left; elongated scar, lower third of the left forearm; healing wound, circular in shape on the elbow, left side; sensation of deafness and easily nervous."²⁴ When questioned as to what could have caused the tenderness, he replied as follows: "That is trauma. The elongated scar on the lower third might have been produced by a stick; the healing wound circular in form, he might have fallen on a hard object and the sensation of deafness, if you try to hit the two ears with the palm, there is compression of the ear drum, so that the hearing is inter-fere-d with. But this will be temporary in nature. Easily nervous, because of fear. I examined him in jail."²⁵

The above testimony notwithstanding, the lower court could still look upon such confession as free of any infirmity. Clearly, that was error, as pointed out by appellant. The constant course of decisions of this honorable Tribunal, true to the meaning of the self-incrimination clause, forbids the admission of any confession obtained under such circumstances. It would be to render nugatory a valuable constitutional right if judges of the courts of first instance display less than full sensitivity to its command. A conviction resting on such proof, and such proof alone, certainly cannot be allowed to stand.

It is likewise timely to impress anew on police officials that the imperative requirements of truth and of humanity condemn the utilization of force and violence to extract confessions from unwilling victims. Crime must be punished and the guilty must not be allowed to escape. A desirable end cannot, however, be attained by unconstitutional means. There should be less than full respect for the law if in the process of enforcing it lawless methods are employed. Once again, then, this Court is called upon to manifest in the strongest language possible its abhorrence for the employment of force to compel a person to sign a statement acknowledging guilt. A decent regard for the dignity that attaches to every human being as such will be satisfied with nothing less.

2. Nonetheless, a reversal is not called for. There is sufficient competent and credible evidence of record pointing unerringly to the guilt of appellant. His brief, in two other errors assigned, would impute the perpetration of the deed "to someone else,"²⁶ By that cryptic statement, reference is made to the testimony of his own thirteen-year-old daughter. Soledad Bagasala, who did, on the witness stand, declare that on the morning of June 9, 1969 there was a quarrel between the Ongkit spouses presumably due to the wife having applied to work as a maid in the household of a certain family in Naga.²⁷ She even went so far as to state that she saw the deceased hitting, with a piece of pipe, the head of her husband, Macario Ongkit, who retaliated by using the bolo on her.²⁸ Certainly, it is understandable why the lower court could not be expected that such an assertion, coming from the

daughter, could disprove what was testified to by Macario Ongkit as to the fatal beating inflicted on his wife by appellant on the occasion of a robbery.

Nor could appellant's responsibility for the gory occurrence be wiped away by the simple disclaimer that he was, during the night of June 9, 1961, asleep in his house, leaving the place only the next morning to harvest palay.²⁹ His defense of alibi was sought to be bolstered by still another member of the family, his wife, who affirmed that on the evening of June 9, 1961 appellant was sleeping in their house, but likewise admitted that the residence of the Ongkit spouses was only about fifty meters away.³⁰ The lower court did not accept such a version. It is understandable why. His identification coming from a neighbor was easily believable. Such an alibi which did not preclude appellant's having taken the time to go with his other co-accused to a house only fifty meters away during the course of the evening, was not calculated to impress any court of justice with its truth. As was stressed in Justice Castro's opinion in *People v. Alcantara*:³¹ "The appellant's main defense in exculpation is alibi. It must be stressed at the outset that alibi is one of the weakest defenses that can be resorted to by an accused, especially if there is direct testimony of an eyewitness duly corroborated by that of another, not only because it is inherently weak and unreliable but also because of the ease of fabricating evidence of alibi and the difficulty of checking or rebutting it.³² *People v. Estrada*³³ was cited in support of such a view. Thus: "No jurisprudence in criminal cases is more settled than the rule that alibi is the weakest of all defenses and that the same should be rejected when the identity of the accused has been sufficiently and positively established by eyewitnesses to the crime. Such should be the rule, for as a defense, alibi is easy to concoct, and difficult to disprove. And for alibi to prosper, it is not enough to prove that defendant was somewhere else when the crime was committed, but he must, likewise, demonstrate that it was physically impossible for him to have been at the scene of the crime at the time.³⁴ Only last January, such a view was reiterated by the Chief Justice in *People v. Provo*³⁵ in these words: "Needless to say, as one of the weakest defenses available in criminal cases, the alibi set up by appellant herein cannot offset the testimony of Benita Mayuyu, who positively identified him as one of those who seized Matignas Serrano, at Pisok, in the evening of October 9, 1958* * *."³⁶ In the light of the fore-going, the guilt of the accused having been demonstrated beyond reasonable doubt, the inadmissibility of the confession extorted from appellant could not justify a reversal of his conviction.³⁷

WHEREFORE, the appealed decision of December 28, 1965 finding Juanito Bagasala guilty of the crime of robbery with homicide and serious physical injuries and sentencing him to suffer the penalty of reclusion perpetua is affirmed, with the modification that the amount of indemnity to the heirs of the deceased Juliana Reginaldo should be in the sum of P12,000.00. Costs against appellant.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Villamor, and Makasiar, JJ., concur.
Ruiz Castro, Teehankee, and Barredo, JJ., no part.

[1] Of the three other co-accused, the case against Salvador Ronan was dismissed by the lower court for lack of evidence. Aniceto Ronan was acquitted. The fifth accused, Arsenio Rex, was never apprehended.

[2] The resolution of this Court of August 24, 1966 reads as follows: "It appearing from the report of the Provincial Warden of Camarines Sur that defendant-appellant Tomas Bagasala escaped from the provincial jail on March 24, 1966, the appeal in case L-26182 (*People v. Tomas Bagasala, et al.*) as to Tomas Bagasala, is hereby [dismissed]."

[3] Testimony of Macario Ongkit, T. s. n. , session of April 10, 1962, pp. 41-42.

[4] Ibid, pp. 43-45.

[5] Ibid, pp. 45-47.

[6] Sergeants Quiaño and Turiano.

[7] Corporals Julian Saldo and Ricardo P. Intia.

[8] Testimony of Ricardo P. Intia, T. s. n., session of April 10, 1962, pp. 13-15.

[9] Ibid, p. 15.

[10] Ibid, pp. 15-18.

[11] Ibid, testimony of Dr. T. J. Santy, provincial health officer of Camarines Sur, p. 5.

13 Art. III, Sec. 1, par, 18.

14 *People v. Carillo*, 77 Phil. 572, 576 (1946).

15 Cf. Sec. 4, Act. 619 (1903) and *United States v. Baluyut*, 1 Phil. 451 (1902); *United States v. Lozada*, 4 Phil. 226 (1905); *United States v. Mercado*, 6 Phil. 332 (1906); *People v. Turtal*, 74 Phil. 667 (1944).

16 *United States v. De los Santos*, 24 Phil. 329, 359 (1913). See also *People v. Panopio*, 75 Phil. 767 (1946).

17 3 Phil. 143.

18 Ibid, p. 152.

19 *Camasura v. Provost Marshal*, 78 Phil. 131, 137 (1947).

20 *People v. Obenia*, 91 Phil. 292, 301 (1952).

21 *Chavez v. Court of Appeals*, L-29169, Aug. 19, 1968, 24 SCRA 663, 679.

22 T.s.n., session of Jan. 23, 1963, p. 10.

23 Ibid, session of March 11, 1963, p. 101.

24 Ibid, p. 78.

25 Ibid.

26 Brief for the Appellant, p. 12.

27 T.s.n., session of March 11, 1963, pp. 105-106.

28 Ibid, p. 107.

29 T.s.n., session of January 23, 1963, p. 8.

30 T.s.n., session of June 4, 1963, p. 114.

31 L-26867, June 30, 1970, 33 SCRA 812.

32 Ibid, p. 824.

33 L-26103, Jan. 17, 1968, 22 SCRA 111.

34 Ibid, p. 127.

35 L-28347, Jan. 20, 1971, 37 SCRA 19.

36 Ibid, pp. 34-35. Cf. *People v. Estacio*, 106 Phil. 981 (1960).

37 The fourth error raised was the alleged violation of the double jeopardy clause, another complaint for the same offense having been dismissed after appellant was arraigned. The filing of the two cases was the result of a mistake committed by a constabulary sergeant. What was done by the court was precisely to assure that appellant be tried only under one of them, the other constituting, under the circumstances, a superfluity. This assignment of error is thus not to be taken seriously.

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