

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. ERNESTO GARCIA, RICARDO RODRIGUEZ, GEORGE BURDETT, ROMEO MARANAN, REYNALDO ARNALDO AND AMADOR ATIENZA, DEFENDANTS WHOSE DEATH SENTE...

G.R. No. L-40106. March 13, 1980

Ponente: AQUINO, J.

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AQUINO, J.:

This is another murder case involving the killing of prisoners by other prisoners in the New Bilibid Prison, Muntinlupa, Rizal, where feuding gangs used to stage vendettas and rumbles.

There is no question as to the corpus delicti. At about eight o'clock in the morning of Good Friday, April 9, 1971, some prisoners of dormitory 4-C, while sunning them-selves in front of building IV, were feloniously attacked by other prisoners who used improvised bladed weapons.

Four prisoners, namely, Samuel Diaz, Augusto de Guzman, Orlando de Villa and Salvador Alcontin, were mor-tally wounded and died later in the hospital, while two prisoners, Josefino So and Abdul Amking, Jr., were wounded.

Diaz, 25, sustained twenty-five stab wounds of which fifteen were on the back. De Villa, 22, had stab wounds in the lumbar region, neck, abdomen and chest. De Guzman, 24, suffered four frontal stab wounds one of which penetrated his heart and three stab wounds on the back one of which perforated his left lung. Alcontin, 30, had four stab wounds on his side, back and forearm. Amking was stabbed in the lumbar region while Joaquin So had a stab wound on the left arm and on the back near the shoulder and abrasions on the knees.

The assailants were Ernesto Garcia, Ricardo Rodriguez, George Burdett, Romeo Maranan, Reynaldo Arnaldo and Amador Atienza. (The case of the seventh assailant, Ricardo Yamba, who was given an indeterminate sentence, is not under review.)

Some victims were stabbed near the water tank and others near the dormitories. The victims were members of the Oxo gang while the assailants were members of the Sputnik gang. The assailants took part in the riot after they learned that Joseph Casey, a member of their gang, had been stabbed.

The assailants surrendered voluntarily to the prison guards with their weapons except Arnaldo who left his weapon at the scene of the crime. In the afternoon of that day when the killings were perpetrated, the assailants executed separate confessions which were sworn to before the Assistant Director of Prisons (Exh. H to N). They recounted in their interlocking confessions how the assaults were perpetrated.

The prison guard-investigator reported that the seven prisoners who executed confessions were the culprits (Exh. G). He testified on the voluntariness of their confessions.

On May 26, 1973, or more than two years after the incident, the seven assailants were charged in court in a single

information with "multiple murder and double frustrated murder".

At the arraignment, the accused, assisted by a counsel de oficio, pleaded not guilty. But when the case was called for trial, all the accused (except Arnaldo), manifested through a new counsel de oficio that they were withdrawing their former plea of not guilty. When re-arraigned, the six accused entered a plea of guilty.

Then, on November 17, 1973, after the information was amended by changing the date of the commission of the crime, the accused, assisted by three new counsels de oficio, were re-arraigned and they pleaded not guilty.

However, at the hearing on September 6, 1974, when the defense counsel was going to present his evidence, he apprised the court that the accused would change their plea of not guilty to that of guilty and that they would present evidence to prove that there was no conspiracy. The court did not act on that manifestation. There was no re-arraignment.

Immediately after that manifestation, the accused presented their evidence. But instead of merely proving lack of conspiracy, the accused tried to show that they defended themselves against the supposed aggression committed by the members of the Oxo gang.

As condensed by counsel de oficio in this Court, the version of the accused was that in the morning of April 9, 1971, while they and the other prisoners, numbering around one hundred fifty, were taking a sunbath at the plaza in front of dormitory 4-C, the prisoners from the adjoining brigades suddenly appeared in the area and attacked the accused and their companions.

The alleged raiders belonged to the Oxo gang. The accused and their companions were alerted to the attack because the prisoners in the upper stories of the dormitories shouted that the Oxos were coming and they allegedly threw into the plaza bladed weapons (matalas).

There followed a tumultuous affray wherein the accused allegedly acted in self-defense. The arrival of Constabulary soldiers who fired their guns into the air ended the bedlam and mayhem (pp. 3-4, Brief).

The trial court rejected that version of the accused. It found that the accused, all convicted prisoners serving sentences and members of the Sputnik gang, took advantage of the occasion when the members of the Oxo gang were taking a sunbath and assaulted them on the pretext that a member of the Sputnik gang had been stabbed by a member of the Oxo gang.

The trial court characterized the claim of self-defense as an afterthought. It noted that the changes of plea made by the accused indicated a guilty conscience. It convicted them of four murders and double frustrated murder and sentenced each of the six accused to four death penalties and one indeterminate sentence of eight years and one day of prison mayor as minimum to ten years of prison mayor as maximum, to pay solidarily to the heirs of the dead victims eighty thousand pesos as indemnity and twelve thousand pesos to the victims in the frustrated murder case.

The case was elevated to this Court for automatic review of the death penalty. The learned counsel de oficio, designated to present the side of the accused, contends that their extrajudicial confessions were taken under duress in the course of custodial interrogation and in violation of their right against self-incrimination. Counsel invokes *Miranda vs. Arizona*, 16 L. Ed. 2nd 694.

The ruling in the *Miranda* case is now found in section 20 of the Bill of Rights of the Constitution which took effect on January 17, 1973. Section 20 provides:

"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."

Paragraph 18 of the Bill of Rights of the old Constitution (corresponding to section 20) contained only the provision against self-incrimination. It does not mention the rights of the accused during custodial interrogation. But article 125 of the Revised Penal Code supplemented paragraph 18 by providing that "in every case, the person detained shall be informed of the cause of his detention and shall be allowed, upon his request, to communicate and confer at any time with his attorney or counsel" (As amended by Republic Act No. 1083).

We have held that the innovations introduced in section 20 have no retroactive effect and that they apply only to confessions obtained after the effectivity of the new Constitution (*Mag-toto vs. Manguera*, L-37201-02, *Simeon vs. Villaluz*, L-37424, and *People vs. Isnani*, L-38929, March 3, 1975, 63 SCRA 4). Hence, section 20 does not apply to this case.

It should be noted that shortly after the stabbing incident and on the same day when it occurred, Abraham de las Alas, an investigator, submitted a report wherein he stated that the seven accused, together with Casey, were the prisoners who stabbed the victims (Exh. V).

About twenty-two months after the incident or on February 8, 1973, when the accused were in the office in the New Bilibid Prison of Francisco M. Guerrero, the special prosecutor conducting the preliminary investigation, the accused ratified their confessions and waived their rights to counsel and to present evidence, as shown in their signed statement (Exh. W) which reads:

"x x x aming tinatalikdan o ipina-uubaya ang aming karapatan na magkaroon ng tagapagtanggol at magpahayag ng aming panig ukol sa nasabing usapin.

"Bukod dito ay aming ipinahahayag ang aming kusang loob na pag-amin nang kasalanan sa nasabing usapin."

If they had been maltreated and if their confessions were not voluntary, they could have complained to Prosecutor Guerrero about the alleged maltreatment.

Counsel de oficio contends that the lower court erred in rejecting the defendants' pleas of self-defense and in not entering an exculpatory verdict. These contentions are premised on the invalidity of the defendants' extrajudicial confessions.

We have reached the conclusion that the confessions of the accused should be accorded full probative value. On the basis of those confessions, the guilt of the accused was proven beyond reasonable doubt.

The killings of the four victims were correctly characterized by the trial court as murders in view of the suddenness of the assaults. The accused employed means and methods which insured the consummation of the killings without any risk to themselves arising from any defense which their unarmed and hapless victims might have made. Indeed, the accused did not suffer any injuries. Their victims were not able to retaliate or to defend themselves.

As correctly observed by counsel de oficio, the wounds sustained by Amking and So did not affect any vital organ and could not have caused their death (7 tsn January 23, 1974). So, the crime as to them is only attempted murder.

As the accused are quasi-recidivists, the death penalty, as the maximum penalty for murder, should be imposed on them conformably with article 160 of the Revised Penal Code.

We have stated that the trial court treated the four killings as four separate offenses and imposed four death penalties on each of the six accused. It regarded the double frustrated murder as only one offense and imposed

on each of the herein six accused only one indeterminate sentence.

We hold that the four murders and the double attempted murder should be considered as a complex offense. The assailants were co-conspirators as shown by the simultaneousness of their assaults. They belonged to the same Sigue-Sigue Sputnik (SSS) gang and harbored a common hostility to the members of the Oxo gang. They were impelled by the same motive which was to inflict injury on the six victims, members of the Oxo gang.

This case is covered by the rule that when for the attainment of a single purpose, which constitutes an offense, various acts are executed, such acts must be considered as only one offense, a complex one.

In other words, when a conspiracy animates several persons with a single purpose, their individual acts in pursuance of that purpose are treated as a single act, the act of execution, which gives rise to a complex offense. The felonious agreement produces a sole and solidary liability (People vs. Abella, L-32205, August 31, 1979 and cases cited therein).

The trial court regarded the imposition of the death penalties as "clearly excessive" considering the conditions in the national penitentiary where "riots caused by gang rivalries were rampant". It recommended to the Chief Executive, through the Secretary of Justice, that the death penalties be commuted to reclusion perpetua.

The observation of the trial court as to the existence of gang rivalries is a matter of judicial notice. In fact, aside from the four killings involved in this case, which were perpetrated at about eight-forty-five in the morning of Good Friday, April 9, 1971, three other incidents took place in succession on that same morning.

Thus, at about ten-five on that morning, a prisoner named Mario Basada was killed in dormitory 11-B-1 by another prisoner. At ten-twenty, prisoner Joseph Bautista was killed in dormitory 12-D by two prisoners. And then at eleven-twenty-five prisoners Victoriano Abril and Florentino Tilosa were killed in Brigade 6-A by three prisoners and prisoner Leonardo Francisco was stabbed.

So, on that Good Friday, eight prisoners were killed by their fellow prisoners (Exh. V, pp. 168, Record).

The personal circumstances of the accused may show why in this case justice should be tempered with compassion.

Garcia, 27 when he testified, single, was a former helper in a welding shop. He is a native of Plaridel, Bulacan. When he was twelve years old, his mother died. He has seven brothers. His father is still alive. He reached first year high school. He was previously convicted of homicide.

When Garcia testified, the trial judge asked him whether he confirmed his lawyer's manifestation that the accused were willing to plead guilty. Garcia replied: "If our sentence will not be death but only life, even how many life sentences, we will admit or plead guilty, your Honor" (2 and 6 tsn September 6, 1974).

Rodriguez, 32, married with three children, a resident of Makati, Rizal, was a former horse trainer. His father died when he was seven years old; his mother died when he was twenty-five years old. He was previously convicted of robbery. He has six brothers. His mother used to be the principal of the elementary school at Tejeros, Makati.

Burdett, 36, married, was convicted of robbery when he was twenty-seven years old. He is an only child. His parents are still living. He lived with his mother. His father, a television repairman, has stayed in Hawaii for several years and made rare visits to his family here.

Maranan, 25, married, came from Socorro, Oriental Mindoro. He has no educational attainment. He does not know how to read. He knows only how to sign his name. He was convicted of frustrated murder in 1968. His father was the chief of police of the town. He has a brother and a sister. When he was sixteen, he ran away from

home.

Arnaldo, 26, single, was a resident of Parañaque, Rizal. He reached Grade two. He had previously stabbed someone. For that offense, he has been serving sentence in the national penitentiary. He has some mental illness (sumpong) or epilepsy. He was confined in the prison hospital.

Atienza, 24, married, a laborer, was formerly a resident of Paco, Manila. He reached first year high school.

Considering the conditions in the New Bilibid Prison as well as the personal circumstances of the six accused and following the precedents laid down in *People vs. De los Santos*, L-1906-8, July 30, 1965, 14 SCRA 702 and *People vs. Abella*, supra, the death penalty imposable in this case should be commuted to reclusion perpetua.

WHEREFORE, the trial court's judgment is set aside. Each of the six accused is sentenced to reclusion perpetua and to pay solidarily an indemnity of twelve thousand pesos to each set of heirs of the four dead victims, one thousand pesos to Joaquin So and another one thousand pesos to Abdul Amking, Jr. Costs de oficio.

SO ORDERED.

Barredo, Makasiar, Antonio, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, concur.

Teehankee, J., dissents in a separate opinion.

Fernando, C.J., took no part.

DISSENTING OPINION TEEHANKEE, J.:

I am constrained to dissent from the majority decision finding the accused guilty as charged in a single information of the crime of "Multiple Murder and Double Frustrated Murder" and imposing upon them the sentence of reclusion perpetua and rejecting their testimonial evidence of lack of conspiracy and that they merely defended themselves against the aggression committed by the members of the OXO gang.

The conviction, as stated on page 6 of the decision, is based on the majority's "conclusion that the confessions of the accused should be accorded full probative value. On the basis of those confessions, the guilt of the accused was proven beyond reasonable doubt."

Counsel de oficio has assailed the trial court's reliance on the accused's extrajudicial confessions as they were taken under duress in the course of custodial interrogation and in violation of their right against self-incrimination. I hold to the minority view in the case of *Magtoto vs. Manguera* (63 SCRA 4), together with the late Chief Justice Fred Ruiz Castro and the now Chief Justice. I submit that the majority view therein bears reexamination in the case at bar and that the extrajudicial confessions of the herein accused concededly taken without the assistance of counsel and without their having been duly informed of their right to remain silent and to assistance of counsel should be declared void and inadmissible under the express mandate of Section 20 of the Bill of Rights of the 1973 Constitution that any such confessions "obtained in violation of this section shall be inadmissible in evidence." The mere fact that such confessions were taken before the effectivity of the 1973 Constitution does not change the situation. Having been offered in evidence only after the effectivity (on January 17, 1973) of the 1973 Constitution, more specifically at the hearing of September 6, 1974, their admission is clearly barred by the cited provision of the Bill of Rights. Without such confessions, nothing remains to justify the conviction of the accused.

The fact cited that on February 8, 1973, i.e. after the 1973 Constitution had already been declared effective as of

January 17, 1973, when the accused were in the office in the New Bilibid Prisons of the special prosecutor who was conducting the preliminary investigation, they supposedly ratified their confessions and waived their rights to the assistance of counsel and to present evidence through an obviously pre-prepared statement, to my mind strengthens the view that the confessions were and are void and inadmissible. In effect, the confessions were taken after the effectivity of the 1973 Constitution and, therefore, should be barred even under the Magtoto case ruling of prospective application of the rights granted the accused under the 1973 Constitution.

It is elementary that such waiver of constitutional rights must be clearly, intelligently and voluntarily given and there has been no such showing in the present case. Suffice it to quote the following pertinent admonition of the late Chief Justice Castro in his separate dissent in the Magtoto case, thus:

"I hold no brief against custodial interrogation per se. But I do entertain mortal fear that when a detained person is subjected, without the assistance of counsel, to custodial interrogation by peace officers, official lawlessness could be the rule and not the exception. Witness the innumerable cases in the annals of adjudication where this Court has set at naught and declared inadmissible confessions obtained from detained persons thru official lawlessness. It is a verity in the life of our nation that people without influence and without stature in society have, more often than not, been subjected to brutal and brutalizing third-degree methods, if not actually framed, by many police agencies in this country. Instead of blinking our eyes shut to this reality, we must recognize it for what it is.

x x x

"Perhaps, my brethren may not begrudge this paraphrase of Justice William Douglas as a conclusion to this dissent: 'the rights of none are safe unless the rights of all are protected; even if we should sense no danger to our own rights because we belong to a group that is informed, important and respected, we must always recognize that any code of fair play is also a code for the less fortunate.'"

Finally, as I wrote in my dissent in the Magtoto case, "the Constitution has now given full substance and meaning to the fundamental right recognized by all civilized states that no person shall be compelled to be a witness against himself by placing confessions obtained without counsel in the same category as coerced confessions (whether the coercion be physical, mental or emotional) and they are therefore deemed null and void and expressly declared to be inadmissible in evidence. Such confessions obtained without counsel stand discredited and outlawed by mandate of the Constitution," and "the Constitution expressly adopted the exclusionary rule as the only practical means of enforcing the constitutional injunction against such confessions obtained in violation of one's constitutional rights by outlawing their admission and thereby removing the incentive on the part of the state and police officers to disregard such rights (in the same manner that the exclusionary rule bars admission of illegally seized evidence) x x x."

Coerced confessions are rejected as void and inadmissible in evidence regardless of when they were given. Consequently, the mere happenstance that the confessions at bar were taken before the 1973 Constitution came into effect does not alter their voidness and inadmissibility as coerced confessions. This should be all the more so in the light of the cardinal principle that statutes (and here it is the Constitution itself) which favor or benefit accused are to be given retroactive effect.

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