

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SOLITO TENA, DEFENDANT-APPELLANT.*G.R. No. 100909. October 21, 1992*

Ponente: NARVASA, J.

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The familiar maxim, “res inter alios acta alteri nocere non debet” (“things done between strangers ought not to injure those who are not parties to them”)[1] embodied in Section 25,[2] Rule 130 of the Rules of Court furnishes basis for the appellant's acquittal in the case at bar.

On June 19, 1988, 82-year-old Alfredo Altamarino, Sr. was found dead inside the bedroom of his house located at corner Gardner and Regidor Streets, Barangay Sadsaran, Mauban, Quezon. His body, described as laid out in an “orderly” manner on his bed, bore eight (8) stab wounds, two of them in the neck and six in the chest. He also had a depressed fracture on the right portion of his head and a lacerated wound on his right eyebrow.¹ Dr. Victorino Q. Arana, then resident physician of the Mauban District Hospital, conducted a post mortem examination, and declared “cardiac tamponade” as the immediate cause of death.²

The deceased's bedroom was in a topsy-turvy state; his cabinet's drawers had been opened and ransacked. Missing therefrom, according to the victim's eldest child, Emma Altamarino Ibana (who traveled from Manila to Mauban as soon as she heard the news of her father's death), were a diamond ring valued at P20,000.00, a Rolex watch worth P8,000.00, a Seiko watch costing P3,000.00, a tie clip with 18 diamonds worth P50,000.00, two men's rings costing P25,000.00, cash in the amount of about P7,000 to P8,000 and an undetermined amount of dollars.³

Suspicion fell on the deceased's caretakers, the spouses William Verzo and Ofelia Ritual,¹ but investigation by the Mauban Police Force yielded no evidence to warrant the filing of charges against them.² Emma Altamarino Ibana sought the help of the National Bureau of Investigation (NBI).³

On January 11, 1989, NBI Agents Reynaldo Manzanero and Celso Ginga arrived at Mauban, Quezon to conduct their own investigation. Mauban Police Station Commander Lt. Geronimo de Gala informed them that suspicion as to the authorship of the crime had shifted to a syndicate operating in Lucena City and nearby municipalities. This syndicate was reportedly involved in the robbery of a Petron Gas Station owned by a certain Benjamin Lim and a member thereof, Adelberto Camota, was then in detention. The NBI Agents interrogated Camota.⁴

Sensing that Camota knew of the incident than he was letting on, the NBI agents requested the services of an NBI polygraph examiner.⁵ The request was granted. On February 1, 1989, Camota, allegedly with his consent,⁶ underwent a polygraph examination conducted by Polygraph Examiner II Ernesto A. Lucena, at the office of the Mauban Chief of Police.¹

When confronted on the same day with the results of his polygraph test, Adelberto Camota executed an extra-judicial confession² in the presence of Atty. Albert Siquijor, admitting participation in the robbery-killing of Alfredo Altamarino, Sr. and pointing to Virgilio Conde, Jose de Jesus, Solito Tena and an unidentified person as

his companions in the crime.

An information³ for the crime of Robbery with Homicide was subsequently filed by the Assistant Provincial Fiscal against Virgilio Conde, Jose de Jesus Jr., Adelberto Camota, Solito Tena and John Doe.

Virgilio Conde and Solito Tena pleaded not guilty upon arraignment on November 12, 1989⁴ as did Adelberto Camota when arraigned on January 17, 1990.⁵ Jose de Jesus and John Doe were never apprehended and remain at large to date. Virgilio Conde later escaped from detention and was tried in absentia.

On February 26, 1991, the Trial Court rendered a decision,¹ disposing as follows:

WHEREFORE, after due consideration of the evidence herein presented, accused Virgilio Conde, Adelberto Camota and Solito Tena are all found guilty beyond reasonable doubt of the complex crime of Robbery with Homicide, and it appearing that there is no mitigating circumstance present, and there is the aggravating circumstance of nocturnity and in band attending in the commission of the crime, all the three accused are, therefore, sentenced to a prison term of TWENTY (20) YEARS of reclusion perpetua and to pay jointly and severally, the heirs of Alfredo Altamirano, Sr., the amount of P120,000.00 for indemnity and damages and to pay the proportionate costs.

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SO ORDERED.

Later, to correct what he described as a typographical error in that decision, the trial judge issued an amended judgment on April 10, 1991 changing the number of years of the penalty imposed, reclusion perpetua, from twenty (20) to thirty (30) years.²

Only Solito Tena appealed. As earlier intimated, he will be granted the relief he seeks.

There was no eyewitness to the commission of the crime. The judgment of conviction was based chiefly on the extrajudicial confession of accused Adelberto Camota. Notwithstanding Camota's repudiation thereof in open court, the Trial Court adjudged the same admissible in evidence upon its own findings that: (a) Camota's constitutional rights to remain silent and to counsel were observed and fully protected during its execution; (b) no force, maltreatment or coercion was applied before, during and after its execution; and, (c) the details contained in the confession attest to its voluntariness.¹ According to said Court, that extrajudicial confession, considered conjointly with the other established circumstances, to wit: that the time, date and place of the commission of the crime were exactly as confessed by Camota; that the wounds sustained by the victim, numbering ten in all, could only have been inflicted by two or more persons; and that the flight of Virgilio Conde was indicative of his guilt, demonstrates beyond reasonable doubt the complicity of the accused in the crime charged.

Not unexpectedly, therefore, it is this extrajudicial confession on which Solito Tena centers his attack in the present appellate proceedings, assigning as errors on the part of the lower court the admission in evidence of the extrajudicial confession of Adelberto Camota and his conviction on the sole basis thereof.²

But as is made clear by the Solicitor General in his "Manifestation in lieu of Appellee's Brief," the matter of that confession's competency need not be delved into as the issue of accused-appellant's guilt or innocence may be resolved by application of the doctrine, "res inter alios acta alteri nocere non debet."¹ Actually, the issue is not so much the admissibility in evidence of the extrajudicial confession, but rather, even conceding its admissibility, its use against persons other than the confessor, e.g., herein accused-appellant.

Use of Camota's extrajudicial confession is precluded by Section 25 (now Section 28), of Rule 130 of the Rules of Court, viz:

Section 28. Admission by third party. - The rights of a party cannot be prejudiced by an act, declaration, or omission of another, except as hereinafter provided.

The reason for the rule is that²:

On a principle of good faith and mutual convenience, a man's own acts are binding upon himself, and are evidence against him. So are his conduct and declarations. Yet it would not only be rightly inconvenient, but also manifestly unjust, that a man should be bound by the acts of mere unauthorized strangers; and if a party ought not to be bound by the acts of strangers, neither ought their acts or conduct be used as evidence against him.

This rule admits of certain exceptions, to be sure, one of which is found in Section 27, (now Section 30) of Rule 130 of the Rules of Court, which states:

Section 30. Admission by conspirator. - The act or declaration of a conspirator relating to the conspiracy and during its existence, may be given in evidence against the co-conspirator after the conspiracy is shown by evidence other than such act or declaration.

This exception does not however apply. In order that the admission of a conspirator may be received against his co-conspirator, it is necessary that (a) the conspiracy be first proved by evidence other than the admission itself; (b) the admission relates to the common object; and (c) it has been made while the declarant was engaged in carrying out the conspiracy.¹

Several factors bar the application of said Section 30 to the case at bar. For one thing, independently of Camota's extrajudicial confession, Exh. K, there exists no evidence of conspiracy between Camota and accused-appellant Tena. As stressed by the trial court, there was no eyewitness to the commission of the crime and none of the circumstantial proofs considered by the court *quo* points to a conspiracy between Camota and accused-appellant Tena. For another, the extrajudicial confession was executed only on February 1, 1989, long after the supposed conspiracy between Camota and accused-appellant had come to an end.

More importantly, Camota, instead of confirming his extrajudicial confession in court, repudiated the same, denied knowledge of the crime charged and denied knowing accused-appellant Tena. Thus¹:

Q: In this document, which was marked as Exh. "K" for the prosecution, you confessed having participated in this offense charged of you and your co-accused. Now, what can you say about this?

A: I do not know what was contained in that document and I was just forced to sign it, sir.

Q: How about this answer to question No. 11 on page 1 of the same; Exh. "K", wherein you mentioned, the names of your co-accused to have participated in the same case. What can you say about this contents of this affidavit?

May I request the Interpreter to read that particular question No.11 and answer.

(NOTE: The Interpreter read question No. 11 of the affidavit, and also the answer)

Q: What can you say about that portion of that alleged confession?

A: I do not know that and the persons mentioned therein, I do not know them, sir.

Q: At the time you signed this particular document marked Exh. "K" for the prosecution, have you come across or do you have knowledge of this narration as portion of this document?

A: They did not show me the contents of the document, sir.

Q: And when you say you do not know the persons mentioned in the question No. 11, are you referring to Virgilio Conde?

A: Yes, sir.

Q: Also to Solito Tena?

A: I do not know him also, sir.

Q: How about Jose de Jesus?

A: I do not know him also, sir.

Q: Please tell the Hon. Court, in its finality, do you really know or what can you say about this charge against you and your co-accused about having robbed and killed the victim, Alfredo Altamarino?

A: That I do not know anything about it, sir.

The extrajudicial confession of Camota thus being inadmissible against his co-accused,¹ and there being no evidence independently of said confession, (Exh. K) linking accused-appellant Solito Tena to the crime, this Court declares Tena not guilty of the complex crime of robbery with homicide with which he is charged.²

Before ending this opinion, it is needful to devote a few words to the amended judgment of the Trial Court which changed the penalty originally imposed on the accused -- "TWENTY (20) YEARS of reclusion perpetua" -- -to THIRTY (30) years of reclusion perpetua."

There is no need for a Trial Court to specify the duration in years of reclusion perpetua whenever it is imposed as a penalty in any proper case. Article 27 of the Revised Penal Code sets forth generally the minimum and maximum ranges of all the penalties in the Code except as regards the penalty of reclusion perpetua.¹ The article simply declares that any person "sentenced to any of the perpetual penalties shall be pardoned after under?going the penalty for thirty years, unless such person by reason of his conduct or some other serious cause shall be considered by the Chief Executive as unworthy of pardon." The provision's intendment is that a person condemned to undergo the penalty of reclusion perpetua shall remain in prison perpetually, or for the rest of his natural life; however, he becomes eligible for pardon by the Chief Executive after he shall have been imprisoned for at least thirty years, unless he is deemed unworthy of such a pardon.

This period of thirty (30) years vis a vis reclusion perpetua is reiterated in Article 70 of the code. Said article pertinently provides that in applying the so called "three-fold rule" -- i.e., that "(w)hen the culprit has to serve two or more penalties, ** ** the maximum duration of the convict's sentence shall not be more than three-fold the length of time corresponding to the most severe of the penalties imposed upon him" -- "the duration of perpetual penalties (pena perpetua) shall be computed at thirty years." But as should at once be perceived, the imputation of a thirty-year duration to reclusion perpetua in Articles 27 and 70 is, as this Court has recently had occasion to point out, "only to serve as the basis for determining the convict's eligibility for pardon or for the application of the three--fold rule in the service of multiple penalties."¹

It was thus incorrect for the Trial Court to specify the duration of thirty (30) years in relation to the penalty of reclusion perpetua imposed by it on the accused in this case.

WHEREFORE, accused-appellant Solito Tena is hereby ACQUITTED of the crime of robbery with homicide in Criminal Case No. 1213 of the Regional Trial Court of Mauban, Quezon. His immediate release from confinement, unless held for other lawful cause, is directed. Costs de officio.

SO ORDERED.

Feliciano, Regalado, Nocon, and Campos, Jr., JJ., concur.

[1] Black's Law Dictionary, Fifth Edition, 1979, p. 1178.

[2] Now Section 28, as amended by Supreme Court Resolution dated March 14, 1989 in Bar Matter No. 411

1 Exhs. "A" and "A-1", pp. 1-2, Folder of Exhibits; TSN, July 4, 1990, pp. 4-12.

2 Exh. "L-1", p. 41, Folder of Exhibits; TSN, July 4, 1990, p. 13. (N.B.: cardiac tamponade is defined as: "mechanical compression of the heart by large amounts of fluid or blood within the pericardial space that limits the normal range of motion and function of the heart" [Webster's Third New International Dictionary.])

3 TSN, September 18, 1990, pp. 105-108.

1 Exh. "J-11", Folder of Exhibits

2 TSN, August 28, 1990, p. 81

3 Exh. "J-8", Folder of Exhibits, p. 30.

4 TSN, August 28, 1990, p. 66-68.

5 Exhs. "H", "H-1", "H-2", "H-2-A", "H-3", "H-3-A" & "H--4", pp. 11-20, Folder of Exhibits; TSN, Ibid.

6 Exh. "D", Folder of Exhibits, p. 7.

1 TSN, July 4, 1990, p. 25.

2 Exh. "K" – "K-1", Folder of Exhibits, pp. 38-39.

3 Docketed as Criminal Case No. 1213 in the Regional Trial Court of Mauban Quezon, Branch 64, presided over by the Hon. Antonio O. Cabungcal, p. 8, Rollo.

4 p. 11, Rollo.

5 p. 13, Rollo.

1 pp. 25-45, Rollo.

2 p. 24, Rollo.

1 Judgment, pp. 41-43, Rollo.

2 p. 56, Rollo.

1 pp. 109-110, Rollo; SEE footnote 1, p. 1, supra.

2 Stark on Evidence, (3d. ed.) pp. 58-59; Best on Evidence, (12[th] ed.) p. 430 cited in People vs. Plaza, 140 SCRA 277, 290.

1 Montoya, et al. vs. Baun, 44 O.G. 4382, cited in Francisco, The Revised Rules of Court in the Philippines, Vol. VII, Part I, 1990 Edition, p. 349.

1 TSN, October 9, 1990, pp. 134-135, Underscoring supplied

1 People vs. Saldua, 87 SCRA 167; People vs. Sosing, 111 SCRA 368; People vs. Valerio, Jr., 112 SCRA 208;

People vs. Rojo, 114 SCRA 304; People vs. Plaza, 140 SCRA 277.

2 People vs. Guillermo, 93 SCRA 168

1 And, it may be added, bond to keep the peace which shall be for such period of time as the court may determine (footnote 2, *infra*)

1 Peo. vs. Cresencia C. Reyes, G.R. Nos. 101127-31, Aug. 7, 1992 which points out the possibility that “estafa through the use of so-called bouncing checks” (punished under B.P. No. 22) may merit a penalty higher than reclusion tempora but lower than the thirty-year period set for reclusion perpetua in Articles 27 and 70 of the Revised Penal Code.

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