

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ERIC GUILLERMO Y GARCIA, APPELLANT.

G.R. No. 147786. January 20, 2004

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For automatic review is the judgment[1] of the Regional Trial Court (RTC) of Antipolo City, Branch 73, dated March 7, 2001, in Criminal Case No. 98-14724, finding appellant Eric Guillermo y Garcia guilty of murder and sentencing him to suffer the penalty of death.

In an Information dated March 23, 1998, appellant was charged by State Prosecutor Jaime Augusto B. Valencia, Jr., of murdering his employer, Victor Francisco Keyser, committed as follows:

That on or about the 22[nd] day of March 1998, in the Municipality of Antipolo, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a piece of wood and a saw, with intent to kill, by means of treachery and with evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and hit with a piece of wood and thereafter, cut into pieces using said saw one Victor F. Keyser, thereby inflicting upon the latter mortal injuries which directly caused his death.

CONTRARY TO LAW.[2]

When arraigned on April 3, 1998, the appellant, assisted by counsel de oficio, pleaded guilty to the charge.[3]

On April 23, 1998, however, appellant moved to withdraw his plea of guilty and prayed for a re-arraignment. The trial court granted the motion and on April 28, 1998, he was re-arraigned. Assisted by counsel de parte, he entered a plea of not guilty.[4] The case then proceeded to trial.

The facts, as gleaned from the records, are as follows.

The victim, Victor Francisco Keyser, was the owner and manager of Keyser Plastic Manufacturing Corp. (Keyser Plastics for brevity), with principal place of business at Sitio Halang, Lornaville, San Roque, Antipolo City.[5] Keyser Plastics shared its building with Greatmore Corporation, a manufacturer of faucets.[6] Separating the respective spaces being utilized by the two firms in their operations was a wall, the lower portion of which was made of concrete hollow blocks, while the upper portion was of lawanit boards.[7] The part of the wall made of lawanit had two large holes, which could allow a person on one side of the wall to see what was on the other side.[8]

On March 22, 1998, prosecution witness Romualdo Campos, a security guard assigned to Greatmore was on duty. At around 8:00 a.m., he saw appellant Eric G. Guillermo enter the premises of Keyser Plastics. Campos ignored Guillermo, as he knew him to be one of the trusted employees of Keyser Plastics. An hour later, he saw Victor F. Keyser arrive. Keyser checked the pump motor of the deep well, which was located in the area of Greatmore, after which he also went inside the part of the building occupied by Keyser Plastics.[9] Campos paid scant attention to

Keyser.

Later, at around 10:00 a.m., Campos was making some entries in his logbook, when he heard some loud noises (“kalabugan”) coming from the Keyser Plastics area. He stopped to listen, but thinking that the noise was coming from the machines used to make plastics, he did not pay much attention to the sound.[10]

At around noontime, Campos was suddenly interrupted in the performance of his duties when he saw appellant Guillermo look through one of the holes in the dividing wall. According to Campos, appellant calmly told him that he had killed Victor Keyser and needed Campos’ assistance to help him carry the corpse to the garbage dump where he could burn it.[11] Shocked by this revelation, Campos immediately dashed off to telephone the police. The police told him to immediately secure the premises and not let the suspect escape, [12] while a reaction team was being dispatched to the scene.

Ten minutes later, a team composed of SPO4 Felix Bautista, SPO1 Carlito Reyes, and Police Aide Jovenal Dizon, Jr., all from the Antipolo Philippine National Police (PNP) Station, arrived at the crime scene. With them was Felix Marcelo, an official police photographer.[13] They were immediately met by Campos, who informed them that Guillermo was still inside the building. The law enforcers tried to enter the premises of Keyser Plastics, but found the gates securely locked. The officers then talked to Guillermo and after some minutes, persuaded him to give them the keys. This enabled the police to open the gate. Once inside, SPO4 Bautista and SPO1 Reyes immediately accosted Guillermo who told them, “Sir, hindi ako lalaban, susuko ako, haharapin ko ito.” (“Sir, I shall not fight you, I am surrendering, and I shall face the consequences.”)[14] Guillermo was clad only in a pair of shorts, naked from the waist up. SPO1 Reyes then asked him where the body of the victim was and Guillermo pointed to some cardboard boxes. On opening the boxes, the police found the dismembered limbs and chopped torso of Victor F. Keyser. The victim’s head was found stuffed inside a cement bag.[15]

When the police asked how he did it, according to the prosecution witness, Guillermo said that he bashed the victim on the head with a piece of wood, and after Keyser fell, he dismembered the body with a carpenter’s saw. He then mopped up the blood on the floor with a plastic foam. Guillermo then turned over to the police a bloodstained, two-foot long piece of coconut lumber and a carpenter’s saw.[16] Photographs were taken of the suspect, the dismembered corpse, and the implements used in committing the crime. When asked as to his motive for the killing, Guillermo replied that Keyser had been maltreating him and his co-employees.[17] He expressed no regret whatsoever about his actions.[18]

The police then brought Guillermo to the Antipolo PNP Station for further investigation. SPO1 Carlos conducted the investigation, without apprising the appellant about his constitutional rights and without providing him with the services of counsel. SPO1 Carlos requested the National Bureau of Investigation (NBI) to conduct a post-mortem examination on Keyser’s remains. The Antipolo police then turned over the bloodstained piece of wood and saw, recovered from the locus delicti, to the PNP Crime Laboratory for testing.

Dr. Ravell Ronald R. Baluyot, a medico-legal officer of the NBI, autopsied Keyser’s remains. He found that the cadaver had been cut into seven (7) pieces.[19] He found that the head had sustained thirteen (13) contusions, abrasions, and other traumatic injuries,[20] all of which had been caused by “forcible contact with hard blunt object,”[21] such as a “lead pipe, baseball bat, or a piece of wood.”[22] He found the cause of death to be “traumatic head injury.”[23] Dr. Baluyot declared that since the amputated body parts had irregular edges on the soft tissues, it was most likely that a sharp-edged, toothed instrument, like a saw, had been used to mutilate the corpse.[24] He further declared that it was possible that the victim was dead when sawn into pieces, due to cyanosis or the presence of stagnant blood in the body,[25] but on cross-examination, he admitted that he could not discount the possibility that the victim might still have been alive when mutilated.[26]

Dr. Olga Bausa, medico-legal pathologist of the PNP Crime Laboratory, testified that she subjected the bloodstained piece of coco lumber as well as the saw recovered from the crime scene to a bio-chemical examination to determine if the bloodstains were of human origin. Both tested positive for the presence of human blood.[27] However, she could not determine if the blood was of the same type as that of the victim owing to the insufficient amount of bloodstains on the items tested.[28]

Keyser's death shocked the nation. Appellant Guillermo, who was then in police custody, was interviewed on separate occasions by two TV reporters, namely: Augusto "Gus" Abelgas of ABS-CBN News and Kara David of GMA Channel 7. Both interviews were subsequently broadcast nationwide. Appellant admitted to David that he committed the crime and never gave it second thought.[29] He disclosed to David the details of the crime, including how he struck Keyser on the head and cut up his body into pieces, which he placed in sacks and cartons.[30] When asked why he killed his employer, Guillermo stated that Keyser had not paid him for years, did not feed him properly, and treated him "like an animal." [31] Both Abelgas and David said that Guillermo expressed absolutely no remorse over his alleged misdeed during the course of their respective interviews with him.[32]

At the trial, appellant Guillermo's defense consisted of outright denial. He alleged he was a victim of police "frame-up." He testified that he had been an employee of Keyser for more than a year prior to the latter's death. On the date of the incident, he was all alone at the Keyser Plastics factory compound as a "stay-in" employee. Other employees have left allegedly due to Keyser's maltreatment of them.[33]

In the morning of March 22, 1998, appellant said Keyser instructed him to report for overtime work in the afternoon. He proceeded to the factory premises at one o'clock in the afternoon, but since his employer was not around, he said, he just sat and waited till he fell asleep.[34] He was awakened sometime later when he heard people calling him from outside. He then looked out and saw persons with firearms, who told him that they wanted to enter the factory. Once inside, they immediately handcuffed him and looked around the premises. When they returned, they were carrying boxes and sacks. He said he was then brought to the police station where he was advised to admit having killed his employer since there was no other person to be blamed.[35] When he was made to face the media reporters, he said the police instructed him what to say.[36] He claimed that he could no longer recall what he told the reporters. The appellant denied having any grudge or ill feelings against his employer or his family.

On cross-examination, appellant admitted that he was the shirtless person in the photographs taken at the crime scene, while the persons with him in the photographs were policemen wearing uniforms.[37] He likewise admitted that the cartons and sacks found by the police inside the factory premises contained the mutilated remains of his employer.[38] He claimed, however, that he was surprised by the contents of said cartons and sacks.[39] Appellant admitted that a bloodstained piece of wood and a saw were also recovered by the police, but he insisted that the police made him hold the saw when they took photographs.[40]

The trial court disbelieved appellant's version of the incident, but found the prosecution's evidence against him weighty and worthy of credence. It convicted the appellant, thus:

The guilt of the accused has been proven beyond reasonable doubt to the crime of murder as charged in [the] information. WHEREFORE, the accused is meted the maximum penalty and is hereby sentenced to die by lethal injection.

The accused is also hereby ordered to pay the mother of the victim, Victor Keyser, the following amounts:

1. Death Indemnity P50,000.00

2. Funeral Expenses P50,000.00

3. Compensatory Damages P500,000.00

4. Moral Damages P500,000.00

5. Exemplary Damages P300,000.00

6. Attorney's Fees P100,000.00

P3,000.00 per Court appearance.

plus

SO ORDERED.[41]

Hence, the case is now before us for automatic review.

In his brief, appellant assigns the following errors:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME OF MURDER HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

II

THE COURT A QUO ERRED IN IMPOSING THE EXTREME PENALTY OF DEATH.

III

THE COURT A QUO GRAVELY ERRED IN AWARDING THE FOLLOWING DAMAGES: DEATH INDEMNITY P50,000.00; FUNERAL EXPENSES P50,000.00; COMPENSATORY DAMAGES P500,000.00; MORAL DAMAGES P500,000.00; EXEMPLARY DAMAGES P300,000.00; AND ATTORNEY'S FEES OF P100,000.00 PLUS P3,000 PER COURT APPEARANCE.[42]

Briefly stated, the issues for resolution concern: (1) the sufficiency of the prosecution's evidence to prove the appellant's guilt beyond reasonable doubt; (2) the propriety of the death penalty imposed on appellant; and (3) the correctness of the award of damages.

Appellant contends that his conviction was based on inadmissible evidence. He points out that there is no clear showing that he was informed of his constitutional rights nor was he made to understand the same by the police investigators. In fact, he says, he was only made to read said rights in printed form posed on the wall at the police precinct. He was not provided with the services of counsel during the custodial investigation, as admitted by SPO1 Reyes. In view of no showing on record that he had waived his constitutional rights, appellant argues that any evidence gathered from him, including his alleged confession, must be deemed inadmissible.

For the State, the Office of the Solicitor General (OSG) counters that the evidence clearly shows that the appellant admitted committing the crime in several instances, not just during the custodial investigation. First, he admitted having killed his employer to the security guard, Campos, and even sought Campos' help in disposing of Keyser's body. This admission may be treated as part of the *res gestae* and does not partake of uncounselled extrajudicial confession, according to the OSG. Thus, OSG contends said statement is admissible as evidence against the appellant. Second, the appellant's statements before members of the media are likewise admissible in evidence, according to the OSG, as these statements were made in response to questions by news reporters, not by

police or other investigating officer. The OSG stresses that appellant was interviewed by media on two separate occasions, and each time he made free and voluntary statements admitting his guilt before the news reporters. He even supplied the details on how he committed the crime. Third, the OSG points out that appellant voluntarily confessed to the killing even before the police could enter the premises and even before any question could be posed to him. Furthermore, after the police investigators had entered the factory, the appellant pointed to the place where Keyser's corpse was found. The OSG submits that at these points in time, appellant was not yet under custodial investigation. Rather his statements to the police at the crime scene were spontaneous and voluntary, not elicited through questioning, and hence must be treated as part of the *res gestae* and thus, says the OSG, admissible in evidence.

The OSG contends that not every statement made to the police by a suspect in a crime falls within the ambit of constitutional protection. Hence, if not made under "custodial investigation" or "under investigation for the commission of an offense," the statement is not protected by the Bill of Rights.

However, in our view, the confession appellant made while he was under investigation by SPO1 Carlito Reyes for the killing of Keyser at the Antipolo PNP Station, falls short of the protective standards laid down by the Constitution. Under Article III of the Constitution,[43] a confession to be admissible must satisfy the following requisites: (a) the confession must be voluntary; (b) the confession must be made with the assistance of competent and independent counsel; (c) the confession must be express; and (d) the confession must be in writing.[44] In the instant case, the testimony of SPO1 Reyes on cross-examination clearly shows the cavalier treatment by the police of said constitutional guarantees. This can readily be gleaned from the transcript of Reyes' testimony, which we excerpt:

Q:

What did you do next upon arriving at the police station?

A:

When we arrived at the police station, I pointed to him and asked him to read what was written on the wall which was his constitutional rights.

Q:

Did he read the same?

A:

Yes, ma'm.

Q:

Did you ask the accused if he did understand what he read?

A:

Yes, ma'm.

Q:

So Mr. Witness, you did continue your investigation at the police station?

A:

Yes, ma'm.

COURT:

What did the accused say when you asked him if he understood what was written on the wall which was his constitutional rights?

A:

He said he understood what was written on the wall and he has no regrets.

COURT:

Proceed.

DEFENSE COUNSEL:

Who were present at the police station during your investigation?

A:

There were many people around when I conducted the investigation at the police station. My companions were there but I do not know the other persons who were present.

Q:

How was the investigation that you conducted at the police station?

A:

I inquired again from Eric Guillermo why he did it, the reason why he did it.

Q:

And was your investigation being recorded in the police station?

A:

No, ma'm.

Q:

Let me just clarify, I did not mean like a tape recorder. Was it written?

A:

I only asked him but it was not written down or recorded.

Q:

During the investigation, was there any lawyer or counsel that was called during the investigation?

A:

None, ma'm.

Q:

Did you inform the accused that he has the right to get a counsel during the investigation?

A:

Yes, ma'm.

Q:

What did the accused say, Mr. Witness?

A:

He did not utter any word.

Q:

During the investigation at the police station, did you exert effort to provide him with counsel before you asked him questions?

A:

No, ma'm.

Q.;

Why?

A:

Because during that time, it was Sunday afternoon and there was no counsel around and because he already admitted that he perpetrated the crime and that was explained to him, his constitutional rights which was on the wall. We did not provide anymore a counsel.

...

Q:

I would just like to ask the reason why you made the accused read the written rights that was posted on the wall of your police station?

A:

So that he would be apprised of his constitutional rights.

Q:

So, you mean that you made him understand his rights?

A.;

Yes, ma'm.

Q:

So, you mean to say before you asked him to read his rights, you presumed that he does not understand what his constitutional rights are?

A:

I think he knows his constitutional rights because he admitted the crime.

...

Q:

And did the accused understand his rights?

A:

I believe he understood because he answered, "wala akong dapat pagsisihan." ("I have nothing to regret.").^[45]

Appellant's alleged confession at the police station lacks the safeguards required by the Bill of Rights. The investigating officer made no serious effort to make appellant aware of his basic rights under custodial investigation. While the investigating officer was aware of the appellant's right to be represented by counsel, the officer exerted no effort to provide him with one on the flimsy excuse that it was a Sunday. Despite the absence of counsel, the officer proceeded with said investigation. Moreover, the record is bare of any showing that appellant had waived his constitutional rights in writing and in the presence of counsel. As well said in *People v. Dano*, even if the admission or confession of an accused is gospel truth, if it was made without the assistance of counsel, it is inadmissible in evidence regardless of the absence of coercion or even if it had been voluntarily given.^[46]

The right of a person under interrogation “to be informed” implies a correlative obligation on the part of the police investigator to explain and contemplates an effective communication that results in an understanding of what is conveyed.[47] Absent that understanding, there is a denial of the right “to be informed,” as it cannot be said that the person has been truly “informed” of his rights. Ceremonial shortcuts in the communication of abstract constitutional principles ought not be allowed for it diminishes the liberty of the person facing custodial investigation.

Be that as it may, however, the inadmissibility of the appellant’s confession to SPO1 Reyes at the Antipolo PNP Station as evidence does not necessarily lead to his acquittal. For constitutional safeguards on custodial investigation (known, also as the Miranda principles) do not apply to spontaneous statements, or those not elicited through questioning by law enforcement authorities but given in an ordinary manner whereby the appellant verbally admits to having committed the offense. The rights enumerated in the Constitution, Article III, Section 12, are meant to preclude the slightest use of the State’s coercive power as would lead an accused to admit something false. But it is not intended to prevent him from freely and voluntarily admitting the truth outside the sphere of such power.

The facts in this case clearly show that appellant admitted the commission of the crime not just to the police but also to private individuals. According to the testimony of the security guard, Romualdo Campos, on the very day of the killing the appellant called him to say that he had killed his employer and needed assistance to dispose of the cadaver. Campos’ testimony was not rebutted by the defense. As the Solicitor General points out, appellant’s statements to Campos are admissible for being part of the *res gestae*. Under the Rules of Court,[48] a declaration is deemed part of the *res gestae* and admissible in evidence as an exception to the hearsay rule when the following requisites concur: (1) the principal act, the *res gestae* is a startling occurrence; (2) the statements were made before the declarant had time to contrive or devise; and (3) the statements must concern the occurrence in question and its immediately attending circumstances.[49] All these requisites are present in the instant case. Appellant had just been through a startling and gruesome occurrence, the death of his employer. His admission to Campos was made while he was still under the influence of said startling occurrence and before he had an opportunity to concoct or contrive a story. His declaration to Campos concerned the circumstances surrounding the killing of Keyser. Appellant’s spontaneous statements made to a private security guard, not an agent of the State or a law enforcer, are not covered by the Miranda principles and, as *res gestae*, admissible in evidence against him.

Further, when interviewed on separate occasions by the media, appellant not only agreed to be interviewed by the news reporters, but he spontaneously admitted his guilt to them. He even supplied the details regarding the commission of the crime to reporter Kara David of GMA Channel 7, who testified in court, to wit:

PUBLIC PROSECUTOR:

Q:

Could you tell us what you found out in the interview?

A:

The first question I think I asked was, if he admits the crime and he gladly said yes he did it, the details about the crime, how he saw the body and where he put it, and the reason why he did it.

...

COURT:

To what crime did he admit?

A:

He said he got mad with (sic) his boss, so he got a piece of wood, “dos por dos,” he hit his boss in the back and then after that, I think he got a saw and sawed the body to eight pieces.

...

PUBLIC PROSECUTOR:

You said the interview was done inside the room of Col. Quintana, how many were you inside the room at that time?

A:

I really could not remember but I was with my cameraman, an assistant, Col. Quintana and I think two more escorts. I could not remember the others.

Q:

You mentioned a while ago that he gladly admitted what he did, can you explain gladly admitted?

A:

Usually when I interview suspects, either they deny or [are] in hysterics, but Eric seems (sic) calm when I interviewed him.

I said, “ginawa mo ba ang krimen,” and he said, “Oo.” “Hindi ka ba nagdalawang isip?” “Hindi.” It was kind of eerie.

Q:

You also mentioned that he gave details of the crime he committed, aside from what you already mentioned like his boss being hit in the head and cut to eight pieces, what did he tell you?

A:

He told me where he put it, like he looked for sacks and cartons, and he told me where he put the head but I could not remember.

But I remember him saying he put the head in the bag and he said he asked help from the security guard, Campos. Basically, that's it. And he told me the reason why he did it.

Q:

Why did he do it?

A:

Because he was not being paid for what he has done and Mr. Keyser treated him like an animal, things like that.

He said that what he did was just right, just justice.[50]

The TV news reporters' testimonies on record show that they were acting as media professionals when they interviewed appellant. They were not under the direction and control of the police. There was no coercion for appellant to face the TV cameras. The record also shows that the interviews took place on several occasions, not just once. Each time, the appellant did not protest or insist on his innocence. Instead, he repeatedly admitted what he had done. He even supplied details of Keyser's killing. As held in *Andan*, statements spontaneously made by a suspect to news reporters during a televised interview are voluntary and admissible in evidence.[51]

Thus, we have no hesitation in saying that, despite the inadmissibility of appellant's alleged confession to the police, the prosecution has amply proven the appellant's guilt in the killing of Victor F. Keyser. The bare denial raised by the appellant in open court pales in contrast to the spontaneous and vivid out-of-court admissions he made to security guard Campos and the two media reporters, Abelgas and David. The positive evidence, including the instruments of the crime, together with the medical evidence as well as the testimonies of credible prosecution witnesses, leaves us no doubt that appellant killed his employer, Victor Francisco Keyser, in the gruesome manner vividly described before the trial court.

But was appellant's offense murder for which appellant should suffer the death penalty, or only homicide for which a lesser penalty is appropriate?

Appellant argues that the prosecution failed to prove either treachery or evident premeditation to qualify the killing as murder. He points out that there was not a single eyewitness to show how the crime was committed and hence, absent an eyewitness to show the manner in which the crime was committed, he cannot be held liable for murder.

For the appellee, the OSG submits that as recounted by the appellant himself, he repeatedly struck the victim, with a piece of coco lumber (*dos por dos*), at the back of his head, while the victim's back was turned towards him. The suddenness of the attack, coupled with the manner in which it was executed clearly indicates treachery. The OSG agrees with appellant, however, that evident premeditation was not adequately established. Hence, we shall now deal only with the disputed circumstance, treachery.

Treachery or *alevosia* is present when the offender commits any crime against persons employing means, methods or forms in the execution thereof, which tend directly and specially to insure its execution without risk to the offender arising from any defense which the offended party might make.[52] Two essential requisites must concur for treachery to be appreciated: (a) the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and (b) the said means of execution was deliberately or consciously adopted.[53]

A qualifying circumstance like treachery changes the nature of the crime and increases the imposable penalties for

the offense. Hence, like the delict itself, it must be proven beyond reasonable doubt.[54] In the instant case, we find insufficient the prosecution's evidence to prove that the attack on the victim came without warning and that he had absolutely no opportunity to defend himself, or to escape. None of the prosecution witnesses could know how the attack was initiated or carried out, simply because there was no eyewitness to the offense. In addition, appellant's narration in his taped interview with Channel 7 is not too clear on this point, thus:

ERIC GUILLERMO:

Mura pa rin ng mura. Nagtataka ako kung bakit ganoon na lamang kainit ito. Bigla niya akong inano dito sa batok ko tapos itinuturo niya ang dito ko (pointing to his head) itinuturo-turo niya ang dito ko.

Ayon mura ng mura, hindi ko napigilan ang sarili ko, dinampot ko iyong kahoy.

ARNOLD CLAVIO:

Sa mga oras na 'yon, nagdilim, napuno ng galit ang kanyang mga mata, nakita niya ang isang dos por dos sa kanyang tabi at agad dinampot habang nakatalikod ang kanyang amo.

ERIC GUILLERMO:

Nang gawin ko sa sarili ko iyon kalmadong kalmado ako noong ginawa ko 'yon. Nasa sarili ako noong ginawa ko iyon.

ARNOLD CLAVIO:

Hawak ang mahabang kahoy, hinampas ni Eric si Mr. Keyser, hinampas hanggang sa mawalan ng malay. Tila hindi pa nakuntento sa kanyang nagawa, napagbalingan naman ni Eric ang isang lagare sa kanyang tabi at isinagawa na ang karumal-dumal na krimen.[55]

From the foregoing, all that can be discerned is that the victim was scolding the appellant, and the victim's back was turned towards the appellant when the latter picked up the piece of wood. It does not, however, show that there was any deliberate effort on the part of the appellant to adopt the particular means, method, or form of attack to ensure the commission of the crime without affording the victim any means to defend himself.

Dr. Ravell Ronald R. Baluyot, the NBI pathologist who autopsied the victim's body, observed that it was difficult to determine the position of the victim in relation to his assailant.[56] Nor was the expert testimony of Dr. Baluyot definitive as to the relative position of the assailant and the victim, to wit:

DEFENSE COUNSEL:

I would like also to ask from your medical knowledge thru the blows that the deceased received in his head

which caused the head injury, would you be able to ascertain also in what position was the attacker or where the attacker was?

A:

Based on the location of the injuries at the head, it would be very difficult to determine the relative position of the victim and assailant as well as the position of the victim when he sustained said injury, because there are injuries located at the front, at the left and right portions of the head although there were none located at the back (stress supplied). Based on these injuries, I would say that the position would probably be maybe in front, maybe to the left or the right in order for him to inflict the injuries to the front, to the left and right sides of the head.[57]

Noteworthy, Dr. Baluyot pointed out that based on the injuries sustained by the victim, there is an indication that he tried to defend himself against the blows being inflicted upon him, thus:

PUBLIC PROSECUTOR:

Q:

The wound that you found at the back of the hand, which is at the back of the right hand, would you characterize this as [a] defense wound?

A:

It is a defense wound. All injuries especially at the upper extremities they could be tagged as defense wounds to fend off...attacks and these upper extremities are usually used to protect the head and the body.[58]

The gap in the prosecution's evidence cannot be filled with mere speculation. Treachery cannot be appreciated absent the particulars as to the manner in which the aggression commenced or how the act unfolded and resulted in the victim's demise.[59] Any doubt as to its existence must, perforce, be resolved in favor of appellant.

One attendant circumstance, however, is amply proved by the prosecution's evidence which shows that the victim's corpse was sawn by appellant into seven (7) pieces. Under Art. 248 (6) of the Revised Penal Code, "outraging or scoffing at the corpse" is a qualifying circumstance. Dismemberment of a dead body is one manner of outraging or scoffing at the corpse of the victim.[60] In the instant case, the corpse of Victor F. Keyser was dismembered by appellant who sawed off the head, limbs, and torso. The Information categorically alleges this qualifying circumstance, when it stated that the appellant "thereafter, cut into pieces using said saw one Victor F. Keyser." This being the case, as proved by the prosecution, appellant is guilty not just of homicide but of murder.

The penalty for murder is reclusion perpetua to death. There being neither aggravating nor mitigating circumstances in the instant case, the lesser penalty of reclusion perpetua should be imposed upon appellant.[61]

Both appellant and appellee claim that the trial court erred in awarding damages. They submit that the trial court's award of P50,000.00 for funeral expenses has insufficient basis, for only receipts amounting to P38,068.00 as proof of funeral expenses were presented in evidence. Thus, this award should be reduced accordingly. Concerning the award of moral damages in the amount of P500,000, compensatory damages also for P500,000 and exemplary damages in the amount of P300,000, appellant submits that these cited sums are exorbitant, and not in accord with prevailing jurisprudence. The OSG agrees, hence modification of said amounts is in order.

The amount of moral damages should be reduced to P50,000, pursuant to prevailing jurisprudence, as the purpose

for such award is to compensate the heirs of the victim for the injuries to their feelings and not to enrich them.[62] Award of exemplary damages is justified in view of the gruesome mutilation of the victim's corpse, but the amount thereof should also be reduced to only P25,000, following current case law.

The award of P500,000 in compensatory damages lacks proof and ought to be deleted. The victim's mother, Remedios Keyser, testified that the victim was earning around P50,000.00 a month[63] as shown in the receipt issued by Rosetti Electronics Phils. Co.[64] However, said receipt shows that it was made out to her, and not the victim. Moreover, it does not show what period is covered by the receipt. Hence, the actual value of the loss of earning capacity was not adequately established. Awards for the loss of earning capacity partake of the nature of damages, and must be proved not only by credible and satisfactory evidence but also by unbiased proof.[65]

Civil indemnity for the victim's death, however, was left out by the trial court, although now it is automatically granted without need of proof other than the fact of the commission of the crime.[66] Hence, conformably with prevailing jurisprudence, the amount of P50,000.00 as civil indemnity should be awarded in favor of the victim's heirs.

Nothing on the record shows the actual expenses incurred by the heirs of the victim for attorney's fees and lawyer's appearance fees. Attorney's fees are in the concept of actual or compensatory damages and allowed under the circumstances provided for in Article 2208 of the Civil Code,[67] one of which is when the court deems it just and equitable that attorney's fees should be recovered.[68] In this case, we find an award of P25,000 in attorney's fees and litigation expenses reasonable and equitable.

WHEREFORE, the assailed judgment of the Regional Trial Court of Antipolo City, Branch 73, dated March 7, 2001 in Criminal Case No. 98-14724, finding appellant ERIC GUILLERMO y GARCIA GUILTY of the murder of Victor Francisco Keyser is AFFIRMED with MODIFICATION. Appellant's sentence is hereby REDUCED TO RECLUSION PERPETUA. He is also ORDERED to pay the heirs of the victim, Victor Francisco Keyser, the sum of P50,000.00 as civil indemnity, P38,068.00 as actual damages, P50,000.00 as moral damages, P25,000.00 as exemplary damages, and P25,000.00 as attorney's fees, without subsidiary imprisonment in case of insolvency. Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

[1] Records, pp. 258-283.

[2] Id. at 1.

[3] Id. at 25.

[4] Id. at 39.

[5] Exh. "BB," "BB-1," and "CC," Records, pp.321, 322, 324.

[6] TSN, 28 April 1998, pp. 4-6.

[7] Exh. "A," Records, p. 294.

[8] Supra, note 6 at 8. See also TSN, 15 May 1998, pp. 7-8.

[9] Id. at 10-11.

- [10] Id. at 8-9.
- [11] Id. at 12-13.
- [12] Id. at 14.
- [13] TSN, 19 May 1998, p. 8.
- [14] Id. at 15, 56. Police Aide Jovenal, Jr., on direct examination declared that what Guillermo told SPO1 Reyes was “Haharapin ko ito, huwag niyo akong aanuhin.” (I’ll face this, don’t do anything to me.) See TSN, 11 August 1998, p. 10.
- [15] TSN, 19 May 1998, pp. 17-19; TSN, 11 August 1998, p. 19; Exh. “J” and “K,” Records, p. 301.
- [16] Id. at 21; TSN, 16 June 1998, p. 10.
- [17] Id. at 22.
- [18] TSN, 11 August 1998, p. 51.
- [19] Exh. “S,” Records, p. 308.
- [20] TSN, 4 August 1998, p. 5. See also Exh. “T,” Records, p. 309.
- [21] TSN, 16 July 1998, p. 19.
- [22] Id. at 20.
- [23] TSN, 4 August 1998, p. 4; Exh. “U,” Records, p. 310.
- [24] TSN, 16 July 1998, pp. 26-27.
- [25] Id. at 15-16.
- [26] TSN, 4 August 1998, pp. 19-21.
- [27] TSN, 15 May 1998, pp. 30-31. See also Exh. “G,” Records, p. 299.
- [28] Id. at 34-35.
- [29] TSN, 18 February 1999, p. 5.
- [30] Id. at 6, 10-11.
- [31] Id. at 14.
- [32] Id. at 5; TSN, 8 September 1998, p. 25.
- [33] TSN, 12 September 2000, p. 6.
- [34] Id. at 8.
- [35] Id. at 9-13.
- [36] Id. at 15-16.
- [37] Id. at 21-22.
- [38] Id. at 23.

[39] Id. at 24.

[40] Supra, note 38.

[41] Records, p. 283.

[42] Rollo, pp. 57-58.

[43] ART. III, SEC. 12. (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

(2) No torture, force, violence, threat, intimidation, or any other means which vitiates the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.

(3) Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.

(4) The law shall provide for penal and civil sanctions for violations of this section as well as compensation to and rehabilitation of victims of torture or similar practices and their families.

[44] People v. Lumandong, G.R. No. 132745, 9 March 2000, 327 SCRA 650, 663.

[45] TSN, 16 June 1998, pp. 20-23, 26. Italics for emphasis.

[46] People v. Dano, G.R. No. 117690, 1 September 2000, 339 SCRA 515, 527.

[47] People v. Continente, G.R. Nos. 100801-02, 25 August 2000, 339 SCRA 1, 21.

[48] Rule 130, SEC. 42. Part of the res gestae. – Statements made by a person while a startling occurrence is taking place or immediately prior or subsequent thereto with respect to the circumstances thereof, may be given in evidence as part of the res gestae. So, also, statements accompanying an equivocal act material to the issue, and giving it a legal significance, may be received as part of the res gestae.

[49] People v. Lobrigas, G.R. No. 147649, 17 December 2002, p. 8.

[50] TSN, 18 February 1999, pp. 4-6.

[51] People v. Andan, 336 Phil. 91, 106 (1997).

[52] People v. Patoc, G.R. No. 140217, 21 February 2003, pp. 14-15.

[53] People v. Pinuela, G.R. Nos. 140727-28, 31 January 2003, p. 7.

[54] People v. Orio, G.R. No. 128821, 12 April 2000, 330 SCRA 576, 588.

[55] TSN, 18 February 1999, p. 10.

[56] TSN, 16 July 1998, p. 22.

[57] TSN, 4 August 1998, pp. 8-9.

[58] Supra, note 56.

[59] People v. Paracale, G.R. No. 141800, 9 December 2002, p. 26.

[60] People v. Carmina, G.R. No. 81404, 28 January 1991, 193 SCRA 429, 435.

[61] ART. 63. Rules for the application of indivisible penalties. – In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

...

(2) When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

[62] People v. Obosa, G.R. No. 129688, 2 April 2002, 380 SCRA 22, 35.

[63] TSN, 27 August 1998, p. 34.

[64] Exh. "DD," Records, p. 327.

[65] People v. Cotas, G.R. No. 132043, 31 May 2000, 332 SCRA 627, 642.

[66] People v. Antonio, Jr., G.R. No. 144266, 27 November 2002.

[67] ART. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

(1)

When exemplary damages are awarded;

(2)

When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;

(3)

In criminal cases of malicious prosecution against the plaintiff;

(4)

In case of a clearly unfounded civil action or proceeding against the plaintiff;

(5)

Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's valid, just and demandable claim;

(6)

In actions for legal support;

(7)

In actions for the recovery of wages of household helpers, laborers, and skilled workers;

(8)

In actions for indemnity under workmen's compensation and employer's liability laws;

(9)

In a separate civil action to recover civil liability arising from a crime;

(10)

When at least double judicial costs are awarded;

(11)

In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.

[68] *People v. Bergante*, G.R. Nos. 120369-70, 27 February 1998, 286 SCRA 629, 645.

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