

**PEOPLE OF THE PHILIPPINES AND VILMA CAMPOS, PETITIONERS,
VS. LOUEL UY, TEOFILO PANANGIN, HON. JUDGE MAMINDIARA P.
MANGOTARA, ACTING JUDGE, BR. 44, INITAO, MISAMIS ORIENTAL,
RESP...**

G.R. NO. 158157. September 30, 2005

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

The decision dated April 7, 2003 of the Regional Trial Court of Misamis Oriental, Branch 44, granting the separate demurrer to evidence of accused Louel Uy and Teofilo Panangin resulting in their "acquittal" for murder due to insufficiency of evidence, but nevertheless holding them jointly and severally liable to pay p35,000 to the heirs of the victim Rabel Campos representing "vigil and burial expenses" is being assailed in the present petition for certiorari under Rule 65 of the Revised Rules of Court by the People and the mother of the victim.

The victim, Rabel Campos, was found dead with several stab wounds in the morning of March 23, 2001 along the National Highway of Maputi, Naawan, Misamis Oriental.

A suspect in the commission of the crime, Teofilo Panangin (Panangin), was arrested on January 22, 2002 by elements of the Special Operation Group and Police Community Precinct 1 of Iligan City.

During the investigation conducted by the National Bureau of Investigation-Iligan District Office (NBI-ILDO) on January 23, 2002, Panangin executed a Sworn Statement[1] with the assistance of Atty. Celso Sarsaba of the Public Attorney's Office (PAO).

In his January 23, 2002 Sworn Statement, Panangin related as follows:

On March 22, 2001, around 8:00 p.m., while he was at the Justy Inn, Tibanga, Iligan City, his former employer Louel Uy (Uy), in whose house he stayed from 1993 to 1997, arrived, telling him that he had a problem and that it was he (Panangin) who could help him.

He and Uy thereafter repaired to the Sanitarium Hospital where Uy's grandmother had just died, after which they proceeded to the house of Uy where the latter gave him a stainless steel knife, instructing him to keep it as they had "work to do."

Later that night, he and Uy, on board a red Isuzu vehicle, proceeded to Quezon Avenue near the Cathedral where they stopped. Uy then called by cellular phone his live-in partner Rabel, who later was to be the victim of a gruesome death, and instructed her to proceed to where they were. As instructed, Rabel repaired to where they were and joined them on board the vehicle. The three of them thereupon proceeded to the direction of Pagahan, Initao, Misamis Oriental and on reaching this place, Uy negotiated a u-turn.

Upon reaching the National Highway in Naawan, Misamis Oriental, Uy stopped the vehicle and alighted. Uy then forcibly pulled Rabel out of the vehicle and as Uy was holding Rabel tightly, he instructed him to stab her. Albeit

he was hesitant, as Uy shouted at him and threatened to shoot him with his cal. 45 pistol tucked at his waist, he had no choice but to follow Uy's instruction. He thus stabbed Rabel once at the stomach.

After he stabbed Rabel, she was able to run away. Uy, however, took the knife from him and chased Rabel. On catching up with her, Uy dragged her to the ground and stabbed her several times until she expired. He and Uy then left for Iligan City, arriving thereat at 1:30 a.m. of March 23, 2001.

At the time Panangin gave his Sworn Statement, he was shown a pair of sandals, found and taken by the police at the scene of the crime, bearing the markings "Neckersman Switzerland" which he confessed to be his, he adding that it was given to him by Edgar Uy, a cousin of Uy. He was also shown a pair of sandals, also recovered from the crime scene, bearing the markings "WAGON & RACKS," which he identified to be Rabel's.

Following the execution by Panangin of his sworn statement-extrajudicial confession on January 23, 2002, Atty. Patricio S. Bernales, Jr., District Agent-in-Charge of the NBI-ILDO, filed on even date a case for murder against Panangin and Uy before the 10[th] Municipal Circuit Trial Court (MCTC) of Iugait-manticao-naawan.

During the preliminary investigation before the MCTC, Panangin's sworn statement and witnesses were presented.

After the preliminary investigation of Panangin was concluded on January 24, 2002, MCTC Investigating Judge Jose U. Yamut, Sr. Issued a resolution,[2] the pertinent portions of which read:

From the evidence adduced or submitted, we are of the OPINION that the killing of CAMPOS was attended by (a) craft; (b) superior strength and evident premeditation (For Uy x x x).

The OVERT ACTS OF UY AND PANANGIN show that both had the UNITY OF DESIGN and both agreed to KILL CAMPOS and decided to kill CAMPOS.

IN VIEW OF THE ABOVE, let a WARRANT OF ARREST issue against TEOFILO PANANGIN, for the FELONY of MURDER with NO BAILBOND RECOMMENDED. PANANGIN is principal by direct participation in the killing of CAMPOS. (Citations omitted)

x x x

The investigating judge then directed the issuance of subpoena to Louel Uy for him to appear at a preliminary investigation scheduled on February 4, 2002. The records do not show if the preliminary investigation scheduled on February 4, 2002 pushed through and if it did, what the result was. The records, however, show that Assistant Provincial Prosecutor Mayorico M. Bodbod found the evaluation of the investigating judge to be in order, hence, he affirmed the same by Resolution[3] dated March 19, 2002 and recommended the indictment of Uy and Panangin for murder.

An Information[4] was thus filed on April 5, 2002 charging Uy and Panangin with murder as follows:

That on March 22, 2001 at around 11:30 o'clock more or less in the evening at Maputi, Nawan, Misamis Oriental, Philippines and within the jurisdiction of this Honorable Court the above-named accused, Louel Uy and Teofilo Panangin with intent to kill and treachery, evident premeditation and abuse of superior strength did then and there, willfully, unlawfully and feloniously stab one Rabel Campos, several times which resulted to her untimely death.

CONTRARY TO and in violation of article 248 of the revised penal code in relation to republic act no. 7659.

When arraigned, both accused entered a plea of not guilty.[5]

Aside from the sworn statement-extrajudicial confession of panangin and photographs[6] of the victim Rabel

taken when she was found dead lying on a grassy area, the prosecution presented 11 witnesses, the most vital of which insofar as the resolution of the petition at bar is concerned are the testimonies of PAO Atty. Celso Sarsaba, NBI agent Gerardo Tamayo, Uy's girlfriend iris Paumar and her mother Julieta Paumar which follow after their respective names.

Atty. Celso Sarsaba[7] of the PAO: he assisted Panangin during the investigation conducted on January 23, 2002 at Police Station I. Before Panangin gave a statement, Gerardo Tamayo (Tamayo) of the NBI informed him of his constitutional rights and warned him that his statement might be used against him, but Panangin went ahead and gave his statement.

Tamayo then proceeded to investigate Panangin who was handcuffed at the inception of the investigation, although in the course thereof his handcuffs were removed as he was allowed to smoke. The investigation was in the form of question and answer, and Panangin had the opportunity to review every item thereof which was translated into the Visayan dialect.

After the interview, he asked Panangin whether he had something to replace or amend or substitute in his statement to which Panangin replied in the negative. Panangin thereafter affixed his signature on his statement in his presence.

NBI Agent Gerardo Tamayo:[8] He investigated Panangin who informed him that he had no counsel to assist him. He thus requested PAO lawyer Atty. Sarsaba to assist Panangin who had earlier been arrested not in connection with the death of Rabel but with another case. In apprising Panangin of his constitutional rights, he spoke to him in Visayan.

Iris Paumar:[9] echoing the contents of her affidavit executed on may 2, 2001,[10] she related that Uy, with whom she had a five-month romantic relationship, together with Panangin, went to her house on March 23, 2001 for her birthday. A few weeks before Rabel's death, she and Rabel figured in a slapping incident.

Julieta Paumar:[11] her daughter iris had a romantic relationship with Uy who, together with Panangin, went to their house at Purok 8, Tipanoy, Iligan City at dawn of march 23, 2001 for her daughter's birthday. She affirmed the contents of her affidavit[12] dated April 10, 2001 which she executed in connection with the case.

Following the filing and the subsequent admission on February 4 and 13, 2003 of its Formal Offer of Evidence, including Panangin's Sworn Statement, the prosecution rested its case.

Thereafter, Panangin, with leave of court, filed on march 3, 2003 a demurrer to evidence[13] on the ground that when he executed his extra-judicial confession, his rights under Sec. 12, Bill of Rights of the Constitution were violated in that he was "man-handled and detained . . . and while being handcuffed his extra-judicial confession was taken by . . . Tamayo" who, however "failed and never informed [him] of his constitutional rights as accused."

To the demurrer, Panangin attached his affidavit[14] dated July 1, 2002 retracting his January 23, 2002 sworn statement-extra-judicial confession.

Uy, also with leave of court, filed a separate demurrer to evidence[15] essentially echoing the grounds-bases of Panangin's demurrer.

More than a month from the filing of the demurrer to evidence, the trial court, by Decision[16] dated April 7, 2003, granted the demurrer, the dispositive portion of which is quoted verbatim:

WHEREFORE, the demurrer to evidence is hereby granted and the accused Louel Uy and Teofilo Panangin are hereby acquitted for insufficiency of evidence.

However, accused are hereby ordered jointly and solidarily to pay p35,000.00 to the heirs of the victim as their heirs in the vigil and burial expenses of the victim.

Without subsidiary imprisonment in case of insolvency.

In granting the separate demurrer of the accused, the trial court held that the testimonial evidence adduced by the prosecution is hearsay, if not speculative; that there was no evidence adduced to the effect that Uy was the last person seen with the victim; that Panangin's extra-judicial confession-sworn statement of January 23, 2002 was not voluntary as it was subsequently retracted (on July 1, 2002) and even if it were not, it is inadmissible since "[i]t is a fruit of poisonous tree" as it was "obtained from Panangin as a result of his illegal arrest."

Hence, this petition for certiorari filed by the People and the victim's mother, raising the following issues:

- WHETHER OR NOT THE EXTRA-JUDICIAL CONFESSION EXECUTED BY ACCUSED, TEOFILO PANANGIN IS ADMISSIBLE IN EVIDENCE THAT WOULD WARRANT HIS OWN CONVICTION FOR THE GRUESOME CRIME OF MURDER OF WHICH HE IS BEING INDICTED[;]
- WHETHER OR NOT THE PROSECUTION WAS ABLE TO PROVE THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT[;] and
- WHETHER OR NOT THE HONORABLE ACTING JUDGE COMMITTED GRAVE ABUSE OF DISCRETION WHICH WOULD RESULT TO LACK OF JURISDICTION WHEN HE GRANTED THE DEMURRER TO EVIDENCE ON THE GROUND THAT THE EXTRA-JUDICIAL CONFESSION EXECUTED BY ACCUSED, TEOFILO PANANGIN IS INADMISSIBLE IN EVIDENCE AFTER ADMITTING THE SAME TO BE PART OF THE EVIDENCE IN CHIEF OF THE PROSECUTION.[17]

Petitioners impute grave abuse of discretion on the part of the trial court when it granted the demurrer to evidence. They contend that when Panangin executed his extra-judicial confession, he was fully apprised of his constitutional rights and the basic requirements of law were fully complied with; and that in any event, since the trial court admitted Panangin's extra-judicial confession, the issue of its admissibility had become moot and academic.

The general rule in this jurisdiction is that a judgment of acquittal is final and unappealable. *People v. Court of appeals*[18] explains the rationale of this rule:

In our jurisdiction, the finality-of-acquittal doctrine as a safeguard against double jeopardy faithfully adheres to the principle first enunciated in *Kepner v. United States*. In this case, verdicts of acquittal are to be regarded as absolutely final and irreviewable. The cases of *United States v. Yam Tung Way*, *People v. Bringas*, *Gandicela v. Lutero*, *People v. Cabarles*, *People v. Bao*, to name a few, are illustrative cases. The fundamental philosophy behind the constitutional proscription against double jeopardy is to afford the defendant, who has been acquitted, final repose and safeguard him from government oppression through the abuse of criminal processes. As succinctly observed in *Green v. United States* "(t)he underlying idea, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is that the state with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent, he may be found guilty." (underscoring supplied)

The same rule applies in criminal cases where a demurrer to evidence is granted. As held in the case of *People v. Sandiganbayan*:[19]

The demurrer to evidence in criminal cases, such as the one at bar, is "filed after the prosecution had rested its case," and when the same is granted, it calls "for an appreciation of the evidence adduced by the prosecution

and its sufficiency to warrant conviction beyond reasonable doubt, resulting in a dismissal of the case on the merits, tantamount to an acquittal of the accused." such dismissal of a criminal case by the grant of demurrer to evidence may not be appealed, for to do so would be to place the accused in double jeopardy. The verdict being one of acquittal, the case ends there. (*Italics in the original*)

Like any other rule, however, the above-said rule is not absolute. By way of exception, a judgment of acquittal in a criminal case may be assailed in a petition for certiorari under Rule 65 of the rules of court upon a clear showing by the petitioner that the lower court, in acquitting the accused, committed not merely reversible errors of judgment but also grave abuse of discretion amounting to lack or excess of jurisdiction or a denial of due process, thus rendering the assailed judgment void.[20]

In *People v. Court of Appeals*,[21] this court had the occasion to elucidate on the special civil action of certiorari, the remedy availed of by petitioners:

To question the jurisdiction of the lower court or the agency exercising judicial or quasi-judicial functions, the remedy is a special civil action for certiorari under Rule 65 of the Rules of court. The petitioner in such cases must clearly show that the public respondent acted without jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction. Grave abuse of discretion defies exact definition, but it generally refers to "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." the abuse of discretion must be patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.

This Court finds that the trial court committed not only gross reversible error of judgment but also was actuated with grave abuse of discretion, exceeding the parameters of its jurisdiction, in holding that Panangin's retracting of his confession shows that the execution thereof was involuntary and that in any event it was inadmissible as it was "a fruit of [a] poisonous tree."

The trial court blindly accepted the claim of the defense that the confession was not made voluntarily on the basis of an affidavit executed by Panangin on July 1, 2002 or more than 5 months after his sworn statement-confession was given and after the prosecution rested its case, which affidavit Panangin was not even called to identify and affirm at the witness stand, hence, hearsay.

The decision of the trial court undoubtedly deprived the prosecution of due process as it was not given the opportunity to check the veracity of Panangin's alleged retraction.

It bears emphasis that the State, just like the accused, is entitled to due process. *People v. Bocar* so teaches:[22]

The cardinal precept is that where there is a violation of basic constitutional rights, courts are ousted of their jurisdiction. Thus, the violation of the State's right to due process raises a serious jurisdictional issue which cannot be glossed over or disregarded at will. Where the denial of the fundamental right of due process is apparent, a decision rendered in disregard of that right is void for lack of jurisdiction. Any judgment or decision rendered notwithstanding such violation may be regarded as a "lawless thing, which can be treated as an outlaw and slain at sight, or ignored wherever it exhibits its head. (*Emphasis and underscoring supplied*)

Moreover, the exclusion of the extra-judicial confession on the basis of Panangin's unsubstantiated claim that it was not voluntarily made is contrary to what *People v. Porio*[23] instructs:

A confession is presumed to be voluntary until the contrary is proved and the declarant bears the burden of proving that his confession is involuntary and untrue. Appellant was unable to discharge this burden. He failed to present evidence that he was "intimidated or practically forced to execute or sign his Sinumpaang Salaysay.

x x x

All the above facts indicate that appellant executed his Sinumpaang Salaysay freely and voluntarily. To hold otherwise is to facilitate the retraction by appellant of his solemnly made statements at the mere allegations of force, intimidation, violence or torture, without any proof whatsoever. Bare assertions will certainly not suffice to overturn the presumption of voluntariness.

x x x

(Italics in the original; emphasis and underscoring supplied).

En passant, on the defense claim that in the execution of his sworn statement, panangin was not properly apprised of his constitutional rights by the assisting counsel, Atty. Sarsaba's testimony shows otherwise:

Q

During the time when the investigation was conducted were you present?

A

Whole duration of the investigation I was sitting beside the accused.

Q

Could you tell us the length of time the investigation was conducted? How many hours?

A

In so far as I can remember it started at around 1:30 and we finished at quarter to six. So, more than four hours.

Q

Before the investigation started, did you have a chance to talk to accused Teofilo Panangin?

A

Yes. After Special Agent Gerardo Tamayo had informed him of his constitutional rights, I asked him again if he would still continue or whether his statement is voluntary and he was not coerced to give his voluntary statement.

Q

After appraising the right of the accused did he still continue to give his voluntary statement?

A

Yes, ma'am.[24]

x x x

Q

And in the first part of the statement the language used is English. Could you recall if the given statement was reduced into the dialect known to accused Teofilo Panangin?

A

After special agent Gerardo Tamayo had been through with the question and answer I had the opportunity to review every item of the question translated into Visayan dialect which I asked the accused whether he has something to replace, amend or substitute and he persistently affirmed that there is nothing to be changed.[25]

x x x

(Cross examination by atty. Maranda)

Q

Compañero, you will attest to the truth in correctness of all the contents of the Sworn Statement given by Panangin, consisting of four pages?

A

I will attest.

Q

And that these contents, all of these are all true and correct to the best of your knowledge?

A

Yes.

Q

And that you read this, particularly the Sworn Statement of Loloy Panangin and you see no mistakes of the statement?

A

As far as the contents of that voluntary statement of the accused, it was reviewed before the final printing of the statement. All questions and answers were again reviewed and I asked him again whether he has something to replace but he said in negative.[26]

x x x

Q

You were present when Investigator Gerardo Tamayo enumerated to the accused his constitutional rights?

A

Yes.

Q

It was Special Agent Tamayo who told the accused of his constitutional rights and not you?

A

At first, it was Special Agent Tamayo who informed him of his constitutional rights and I again asked him whether his statement to be given by him are voluntary and not coerced.

Q

You asked the accused only if his statement are voluntary?

A

Yes.

Q

And that question was asked after the sworn statement was made and ready for signing, right?

A

Before and after.

Q

The right to which the accused had been allegedly informed by Agent Tamayo of his right to remain silent and the right to choose his own counsel was indicated in the sworn statement?

A

Yes.

Q

No other right?

A

All the rights.

Q

And what are these rights?

A

His right to independent counsel, his right to remain silent and he has the right to choose.

Q

So the constitutional rights of the accused to which he was informed were all enumerated in the sworn statement, right?

A

Yes.[27]

x x x

Q

Since it was the NBI who requested you to appear on your office, what did you do when you arrived?

COURT:

Witness may answer.

A

When I arrived there, I asked the NBI, Gerry Tamayo if this is the accused, sitting beside him. I also talked to the accused and I informed him that I am his counsel, per request by NBI, Gerry Tamayo and I also asked him if he will still continue to give his statement voluntarily, that he was not coerced of course to give his sworn statement.

ATTY. CARASCO:

That will be all, your honor.

COURT:

Q

Is that the only question that you asked to the accused?

A

As far as I can remember, the question and answer started right away, so I have no opportunity to talk to him longer.

Q

You did not ask him the effect of his voluntary confession?

A

It was part of the constitutional rights.

Q

My question is whether or not you have told the accused regarding the effect of his voluntary confession?

A

Yes.

Q

What did he say?

A

He still continued, Your honor.

Q

Did you explain him in Visayan dialect?

A

Yes. All were translated into Visayan dialect.[28]

x x x (emphasis and underscoring supplied)

The affidavit of retraction, attached to the defense's demurrer to evidence - basis of its thesis that Panangin's sworn statement of January 23, 2000² was flawed due to its involuntariness, being hearsay, the above-quoted categorical statements of Atty. Sarsaba claiming otherwise stands unrefuted. The burden of the evidence thus passed to the defense.

The trial court's ruling that even if Panangin's confession were not retracted, it is still inadmissible, being the "fruit of [a] poisonous tree" or illegal arrest, sections 2 and 3 of art. III of the Constitution read:[29]

x x x

SEC. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, . . .

SEC. 3. . . .

(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding. . . . (Emphasis supplied),

The inadmissible evidence termed as "fruit of a poisonous tree" in jurisprudence is that contemplated in above-quoted constitutional provisions. It refers to object, not testimonial, evidence. And it refers to an object seized in the course of an illegal search and seizure.

In fine, since as reflected above, the trial court committed not only gross errors of judgment but also grave abuse of discretion in the grant of the defense's demurrer to evidence, no valid judgment was rendered, preventing jeopardy to attach.

A remand of the case for further appropriate proceedings is thus warranted and it does not violate the accused's right against double jeopardy.

This court will not close its eyes to miscarriages of justice brought about by precipitate actions taken by trial courts in criminal cases resulting to the acquittal of the accused. As the court of last resort, it is its sacred duty to maintain its vigilance against the haphazard application of the finality of acquittal rule on the ground of double jeopardy, to insure that lawbreakers do not seek refuge thereunder to the prejudice of public justice.

A final note. Also en passant, in holding that the extra-judicial confession of Panangin is inadmissible and that the testimonial evidence adduced by the prosecution amounts to mere suspicions and speculations, the trial court in effect held that no evidence imputing authorship of the crime to the accused was presented. But an acquittal based on that ground closes the door to civil liability, for a person who has been found not to be the perpetrator of any act or omission cannot be held liable for such act or omission.[30]

WHEREFORE, the petition is hereby GRANTED. The April 7, 2003 decision of the Regional Trial Court of Misamis Oriental, Branch 44 in Criminal Case no. 2002-349 Is hereby SET ASIDE and the case is REMANDED to said court for further proceedings in line with the foregoing disquisitions.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.

[1] Exhibit "A"; Records at 7-10.

[2] Records at 115-118.

[3] Id. at 4.

[4] Id. at 2.

[5] Id. at 42-43.

[6] Exhs. "H," "H-1," "H-2" and "H-3"; Records at 30.

[7] Transcript of Stenographic Notes (TSN), July 18, 2002 at 4-46.

[8] Id. at 46-71.

[9] TSN, October 17, 2002 at 12-26.

[10] Exhibit "P"; Records at 20-22.

[11] TSN, October 17, 2002 at 2-12.

[12] Exhibit "E"; Records at 18-19.

[13] Records at 157-164.

[14] Id. at 165-166.

[15] Id. at 138-154.

[16] Rollo at 32-38.

[17] Id. at 13-14.

[18] 423 SCRA 605, 615 (2004).

[19] 447 SCRA 291, 307-308 (2004). Vide Sanvicente v. People, 392 scra 610, 615-617 (2002); Ong v. People, 342 SCRA 372, 387 (2000).

[20] Yuchengco v. Court of Appeals, 376 SCRA 531, 541 (2002).

[21] 308 SCRA 687, 698 (1999).

[22] 138 SCRA 166, 170-171 (1985).

[23] 376 SCRA 596, 606-608 (2002).

[24] TSN, July 18, 2002 at 9-10.

[25] Id. at 11.

[26] Id. at 13-14.

[27] Id. at 32-33.

[28] Id. at 44-46.

[29] Art. III, THE 1987 PHILIPPINE CONSTITUTION.

[30] Eusebio-Calderon v. People, 441 SCRA 137, 147 (2004) citing Manantan v. Court of Appeals, 350 SCRA 387, 397-398 (2001).

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