

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME VILLEZA Y PALANIA @ JIMMY, ANTONIO VILLEZA Y PALANIA, ROBERTO ALA, JR. Y SANTILLAN @ BINBIN AND ANTONIO GANADEN Y IGNACI...

G.R. No. 56113. January 31, 1984

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This is an appeal from the judgment of the Circuit Criminal Court of Manila in CCC-VI-2750, convicting the defendants-appellants of Murder, the dispositive part of which reads:

"WHEREFORE, the Court finds: (1) the accused Jaime Villeza y Palania, guilty beyond reasonable doubt of the crime of murder, qualified by treachery and there being no aggravating or mitigating circumstances to offset each other, hereby sentences him to suffer the penalty of reclusion perpetua; and (2) the accused Antonio Villeza y Palania, Roberto Ala, Jr. y Santillan and Antonio Ganaden y Ignacio, guilty beyond reasonable doubt of the crime of murder, qualified by treachery which is attended by the mitigating circumstance of voluntary surrender without any aggravating circumstance to offset the same, and hereby sentences them each to suffer the penalty of imprisonment ranging from TEN (10) YEARS AND ONE (1) DAY of prision mayor, as minimum, to SEVENTEEN (17) YEARS, FOUR (4) MONTHS AND ONE (1) DAY of reclusion temporal, as maximum.

All said accused are hereby ordered to pay to the heirs of Bonifacio Turla y Diega, jointly and severally, the sum of P12,000.00 for the death of the latter, and to pay their proportionate shares of the costs.

Atty. Emilia Saturnino, counsel de oficio for accused Roberto Ala, Jr. and Antonio Ganaden, is hereby awarded the sum of P450.00 as attorney's fees."

The Information alleges:

"That on or about the 4th day of February, 1978, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously, with intent to kill and with treachery and evident premeditation, attack, assault and use personal violence upon one Bonifacio Turla y Diega, by then and there stabbing him with a bladed weapon several times on the different parts of his body, thereby inflicting upon the latter mortal stab wounds which were the direct and immediate cause of his death thereafter."

After pleas of not guilty by all the accused, trial ensued.

The prosecution presented Fernando Enguerra as principal witness, a 14-year-old second year high school student and a "balut" vendor. He narrated that around 11:00 to 11:30 p.m. of February 4, 1978 after he had made the rounds of selling "balut" and was on his way to submit the proceeds of the sale, he stopped to buy Pop Cola at Mang Santos' store located beside the railroad tracks between Paltok and Domingo Santiago Sts., Sta. Mesa,

Manila. While at the store, he saw the four accused, his neighbors, seated on the railroad tracks about 3 arms-lengths from the store and when he began to drink he saw a commotion. The accused Antonio Ganaden, Roberto Ala, Jr. and Antonio Villeza were boxing a man, identified later as Bonifacio Turla, causing the latter to fall backwards. He then heard one of the three utter: "Sige na, tirahan mo na para hindi na siya makapunta sa pulis!"[1] , followed by the stabbing several times of the victim lying on his back by the fourth accused, Jaime Villeza, with a stainless steel knife which he drew from his waist and thrust successively on the front and side of the victim. All four accused then scampered away. The victim stood up and tried to run, calling "Patring, tulungan mo ako," but eventually fell down.[2] This witness related to the storeowner what he had seen and without consuming the Pop Cola, he went home. His parents advised him not to go out anymore.

The next day he saw accused, Jaime Villeza, at the store but did not say anything. Instead, he went to Pat. Moises Acosta, a neighbor, to report the matter. His statement was taken at police headquarters on February 6, 1978.[3] At that time, all the accused were also present and he identified them all.

The victim died at the UERM Hospital the day after. His cadaver was identified by his wife Patrocinia (Pating) Turla as Bonifacio Turla, 41 years old, residing at 332 Parcel St., Sta. Mesa, Manila, and a native of Gamay, Samar. Post-mortem examination showed that he died due to 6 penetrating stab wounds (3 in the chest and 3 below the right armpit) lacerating the upper lobe of the left lung, right ventricle of the heart, right lobe of the liver and diaphragm.[4] Strong alcoholic odor of the stomach contents was also indicated. The medico-legal officer testified that a sharp pointed, bladed instrument like a knife was used in the stabbing.[5]

While Pat. Juanito Garcia, Homicide Section, Western Police District, Metro Manila, was making inquiries at the scene of the crime, he was approached by accused Jaime Villeza claiming that he was an eyewitness. Jaime Villeza made a statement in the morning of February 6, 1978 implicating Antonio Ganaden as the person who boxed the deceased and Roberto Ala, Jr. as the one who stabbed the victim several times.[6] In the afternoon of the same day, Antonio Villeza, Antonio Ganaden and Roberto Ala, Jr. voluntarily surrendered to Pat. Acosta. Jaime Villeza was taken along with the three.[7]

At the police precinct the four accused were investigated. Jaime Villeza executed another statement admitting to having stabbed an unknown person twice with a knife when told to do so by co-accused Roberto Ala, Jr., and contending that the latter then grabbed the knife and stabbed the victim, too. Before that, Villeza stated that Antonio Ganaden and Roberto Ala, Jr. had boxed the victim.[8] Accused Roberto Ala, Jr. for his part, also executed a statement admitting that he boxed the victim together with Antonio Ganaden and Antonio Villeza but denied stabbing the victim and pointing to Jaime Villeza as the killer.[9] In his own statement, accused Antonio Ganaden stated that he boxed the victim who evaded the blow and in so doing the latter fell down; thereafter Jaime Villeza, Antonio Villeza and Roberto Ala, Jr. boxed the victim.[10] Antonio Villeza, brother of Jaime, refused to give any statement relative to the incident.[11]

Patrolman Juanito Garcia further testified that before the accused gave their statements they were informed of their rights to remain silent and to counsel and warned that anything they say could be used against them. The statements were subscribed and sworn to by the accused before Assistant City Fiscal Pedro Magpantay after the accused had read their respective statements.[12] The accused were placed under arrest and detained.

All four accused professed their innocence and set up alibi as a defense.1) Antonio Villeza, single, testified that, on February 4, 1978, he was working as a cement mixer at the Philippine Plaza Hotel construction and after work he stayed and slept there. The following day he went home at 3400-B West Vigan, Sta. Mesa, Manila and was informed that his brother, Jaime, was detained in the police precinct. When he went there he was not allowed to talk to his brother. While at the precinct, a boy whom he recognized as a neighbor, pointed to him as being

involved in the killing. He could not say anything because he was taken by surprise. Pat. Garcia boxed him several times when he denied participation in the incident. He was thereafter detained.

2) Jaime Villeza, single, a laborer at Royal Porcelain in Novaliches, Quezon City, testified that at about 11:00 in the evening of February 4, 1978 on his way home he was walking along the railroad tracks between Paltok and Domingo Santiago Sts., Sta. Mesa, Manila, when he saw a man holding a piece of wood and shouting: "Putang-ina mo!".^[13] The man was bloody, Villeza avoided him and went home. The next day while buying cigarettes in a nearby store he heard his name implicated in the incident but maintained that he did not know what it was all about. Nevertheless, he approached Pat. Acosta, who told him to go to the Homicide Section at the police headquarters at U.N. Avenue, Manila. He gave his first statement in the morning of February 6, 1978, which he signed but did not read and was released soon after. In the afternoon, policemen came to fetch him and he was then detained in the precinct. He saw the boy witness, Fernando Enguerra, with the policemen. He was taken upstairs and asked to sign a paper. When he refused to sign he was told to take off his clothes and was handcuffed. He was kicked on his side, subjected to electric current on his chest, groin and armpit, and his head was submerged in a toilet bowl until he lost consciousness. When he came to, he was asked to sign a paper, which he did, without any opportunity to read the contents. He was threatened if he would disclose his maltreatment.

3) Roberto Ala, Jr., single, a "balut" vendor, stated that on his way home at around 11:00 in the evening of February 4, 1978, while passing along the railroad tracks he was approached by the victim. The latter got "balut" from him and asked for change. He boxed the victim, who then ran away. He knows Fernando Enguerra who is also a "balut" vendor, but he did not see the latter that evening. Neither did he see his co-accused. He surrendered to Pat. Acosta when he heard that he was implicated in the killing of the victim. In the precinct, he was told to admit involvement in the killing and because he was threatened with bodily harm he signed his statement without reading it. He denied having given answers to the questions therein.

4) Antonio Ganaden, married, a house painter, denied any involvement in the incident. He contended that, on February 4, 1978, at past 9:00 p.m., he was at home and did not go out. He lives at 3479 Interior 31 Paltok St., Sta. Mesa, Manila. He surrendered to Pat. Acosta when he learned that he was a suspect in a killing that occurred near their place. He read and signed his statement but some answers to the questions were not given by him. He told the investigator about it but the latter explained that it was all right.

In this appeal, through the CLAO, the following errors, which we have consolidated, are assigned in the main Brief and Supplemental Brief:

"I. THAT THE LOWER COURT GRAVELY ERRED IN ADMITTING THE EXTRAJUDICIAL STATEMENTS OF ACCUSED JAIME VILLEZA, ROBERTO ALA, JR. AND ANTONIO GANADEN.

"II. THAT THE LOWER COURT GRAVELY ERRED IN NOT APPRECIATING THE AGE OF THE ACCUSED JAIME VILLEZA.

"III. THAT THE LOWER COURT GRAVELY ERRED IN NOT APPRECIATING THE TESTIMONIES OF ACCUSED ANTONIO VILLEZA AND SOLEDAD ORBISTA.

"IV. THAT THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE HEREIN APPELLANTS OF THE CRIME OF MURDER."

The evidence does not justify the claim that the extrajudicial confessions of Jaime Villeza, Ala, and Ganaden were obtained by force, violence, threat and intimidation. Prior to questioning, they were individually apprised of the subject matter of the investigation, of their right to remain silent, and to counsel and that if they could not afford

an attorney, one would be appointed. Thus, in their sworn statements, taken in the dialect known to them, and subscribed by them before the Inquest Fiscal, the following questions and answers appear:

"TANONG: Ipinaaalam ko sa iyo na ikaw ay nasasa ilalim ng isang pagsisiyasat tungkol sa pagkamatay ng isang lalaki noong madaling araw ng Pebrero 5, 1978, na nasaksak doon sa may riles ng tren sa may Paltok, Sta. Mesa, Sampaloc, Maynila, ngunit bago kita tanungin at sumagot sa aking mga itatanong sa iyo ay akin munang ipinaaalam sa iyo ang iyong mga karapatan sa ating Bagong Saligang Batas sa Artikulo 4, Seksyon 20, gaya ng mga sumusunod:

I. Ikaw ay may karapatang manahimik at huwag sumagot sa aking mga itatanong sa iyo. Ano ang masasabi mo dito?

SAGOT: Nauunawan ko ho.

2. Ikaw ay may karapatan ding kumuha ng iyong sariling abogado na tutulong sa iyo sa imbistigasyong ito. May sarili ka bang abogado?

SAGOT: Wala sir, pero kahit na wala akong sariling abogado ay magbibigay ho ako ng salaysay tungkol lamang sa tunay na ginawa ko.

3. Kung wala kang sariling abogado, nais mo bang ikaw ay aking bigyan ng isa na walang bayad na tutulong sa iyo sa pagsisiyasat na ito?

SAGOT: Hindi ko na ho kailangan ang abogado kasi ho iyong totoo lang naman ang sasabihin ko.

4. Ipinaaalam ko rin sa iyo na ang lahat ng sasabihin mo sa salaysay mong ibibigay sa akin ay maaari kong gamitin pabor o laban sa iyo sa alin mang hukuman dito sa ating kapuluan?

SAGOT: Naiintindihan ko po.

5. Dapat mo ring malaman na sa pagbibigay mo ng iyong sariling salaysay ay walang tumakot, pumilit, nanakit o nanangako sa iyo ng ano mang kaluwagan sa pagsisiyasat na ito. Nauunawan mo ba ito?

SAGOT: Oho."

And as a concluding statement:

"21. T: Matapos mong mabasa at maunawaan ang salaysay mong ibinigay sa akin, ito ba ay handa mong lagdaan at sumpa sa harap ng piskal bilang patunay na ang lahat ng mga sinabi mo dito ay pawang totoo lamang?

S: Opo sir."[14]

As the Solicitor General had correctly observed:

"This contention does not deserve serious consideration. Except for the self-serving testimonies of the aforementioned appellants, their claim of maltreatment by the police authorities is not supported by any evidence on record. Such claim, moreover, is easily negated by the following circumstances showing earmarks of voluntariness in the execution of the extrajudicial confessions in question:

1. In the case of appellant Jaime Villeza, he executed two (2) sworn statements pinpointing Antonio Ganaden and Roberto Ala, Jr. as the perpetrators of the crime. If it were really true that the police authorities maltreated him into executing another confession admitting his participation in the commission of the offense, the police authorities could have easily done this at the time said appellant executed his first statement. That this was not done clearly indicates that he was freely allowed by the police authorities to execute his two (2) sworn statements;

2. The fact that appellant Antonio Villeza did not execute any sworn statement likewise shows that the four (4) accused were given a free choice by the police authorities whether or not to give a statement. Otherwise, there would have been no reason for the police authorities not to have likewise forced Antonio Villeza to execute an extrajudicial confession;

3. The extrajudicial confessions of the three (3) accused contain details describing the manner by which the crime was committed which they alone could have supplied (*People v. Bautista*, G.R. No. 31900, August 6, 1979, 92 SCRA 465; *People v. Navasca*, G.R. No. 28107, March 15, 1977, 76 SCRA 70);

4. The sworn statements of the appellants embodying their respective extrajudicial confessions were subscribed and sworn to before the inquest fiscal. If it were true that they were forced or maltreated into making these confessions, they could have easily manifested before said inquest fiscal that their confessions were not voluntarily given. Their failure to complain to the prosecuting officer necessarily belies their claim of maltreatment or coercion on their persons. (*People v. Damaso*, G.R. No. 30116, November 20, 1978, 86 SCRA 370; *People v. Abejero*, G.R. No. 36039, May 17, 1980, 97 SCRA 647). Conversely, this circumstance is proof of the voluntariness of the execution of appellants' extrajudicial confessions;

5. The sworn statements of Antonio Ganaden and Roberto Ala, Jr. contain allegations tending to minimize their criminal participation and liability and to shift the blame on Jaime Villeza. (*People v. Madai Santalani*, G.R. No. 29979, September 28, 1979, 93 SCRA 315; *People v. Ty Sui Wong*, G.R. No. 32529, May 22, 1978, 83 SCRA 125).

In this regard, it must be stressed that even if the extrajudicial confessions in question were to be disregarded, the guilt of appellants had been established beyond reasonable doubt by the clear and positive testimony of prosecution eye-witness Fernando Enguerra identifying them as the assailants."^[15]

To prove minority, appellant Jaime Villeza presented in evidence an Affidavit of Baptism, dated April 16, 1980, executed by Esteleta P. Villeza, his mother, stating that her son was born on October 22, 1963 and baptized according to the rites of the Roman Catholic Church, subscribed and sworn to before the parish priest of the Most Holy Trinity Rectory, Balic-Balic, Sampaloc, Manila.^[16] It is claimed that Jaime Villeza was, on February 4, 1978, the date of the incident, a minor of 14 years, 3 months and 12 days.

The aforesaid Affidavit has no probative value. It is not a certificate of baptism containing data from entries made in the Book of Baptisms of the Church. It does not even state the date when Jaime Villeza was baptized and even if it did it is evidence only to prove the administration of the sacrament on the date therein specified. Neither his mother nor the parish priest as signatories, testified to its authenticity or its correctness. Affidavits are inadmissible as evidence under the hearsay rule, unless the affiant is placed on the witness stand to testify thereon.^[17] Further, as reasoned out by the Trial Court:

... Third his employment by the Royal Porcelain Corporation per Exhibit 3-Jaime Villeza, dated January 26, 1977 wherein it appears that accused Jaime Villeza was already 'working as a platter machine operator' and assigned 'as a regular 2nd shift worker from 2:00 p.m. to 10:00 p.m. and sometimes work as overtime from 6:00 a.m. to 2:00 p.m.' when he would only be 14 years, three months and 12 days old, is hardly believable for such an employment would be within the prohibitive limits of existing labor laws as well as the Child and Youth Welfare Code (P.D. No. 603) regarding the employment of minors below sixteen years of age."

Moreover, by his own admission, Jaime Villeza stated in his sworn statement, dated February 6, 1978, that he was 18 years old^[18] and confirmed this on cross-examination when he replied:

"Q Do you remember if you gave this answer,

Answer: Jaime Villeza y Palania, 18 anyos binata, mangagawa, ipinanganak dito sa Maynila at nakatira sa

3400-B West Vigan, Sta. Mesa, Maynila.

Do you remember this answer given by you to the police?

"A That is what I remember, Madam, when I gave my name, place and age.[19]

Jaime Villeza's defense of minority will, therefore, have to be disregarded the same not having been proven to the satisfaction of the Court.

The other assigned errors focus on the issue of credibility of witnesses. It is well established that the Trial Court's finding thereon deserves full respect. Fernando Enguerra, the eyewitness, proved impartial with no ulterior motive to implicate the appellants as participants in the criminal act. He was a neighbor of the appellants who were known to him and who knew him.[20] Roberto Ala, Jr. was, like him, a "balut" vendor. He brooked no delay in reporting the incident, since the very next day he went to Pat. Acosta and told him what he saw the night before.[21] In the police precinct he readily identified the appellants.[22] He was threatened with bodily harm by friends and relatives of appellants so that his parents had to send him to the province.[23] Nevertheless, he came back to testify in a testimony that was clear, coherent and consistent. He was only about 3 arms-lengths from the site of the crime and could recognize the appellants because the night was bright and the light from the store illuminated the place.[24] The illumination was confirmed even by Jaime Villeza himself who testified that the place was bright.[25] Fernando Enguerra's presence at the scene was also confirmed by defense witness Gloria Galvan, who said that she saw him not long after the incident at that place.[26]

The alibi of the appellants is weak. There was no physical impossibility on their part to be at the scene of the crime at the time of its commission. Antonio Villeza testified that he was at his place of work at the construction site of Philippine Plaza Hotel in Vito Cruz, Manila, which is 6 kilometers to Paltok, Sta. Mesa, Manila.[27] Antonio Ganaden stated that he was at his residence, which is 3 arms-lengths from the railroad tracks and within the vicinity.[28] Both Roberto Ala, Jr. and Jaime Villeza declared that they were at the scene of the crime at the time of the incident. The former admitted having boxed the victim, while the latter stated he was passing by.[29] Following the well-entrenched rule, the defense of alibi cannot prevail over the positive identification of the accused by eyewitnesses.[30]

Finally, the accused maintain that the Trial Court erred in convicting them of Murder, insisting on their defense of denial of any involvement in the fatal stabbing of the victim. As already explained, their protestations of innocence are belied by the evidence.

WHEREFORE, we affirm the judgment appealed from except for the indemnity awarded, which is hereby increased to P30,000.00.[31]

Costs against accused-appellants. SO ORDERED.

Plana, Relova, and Gutierrez, Jr., JJ., concur.

Teehankee, (Chairman), J., in the result.

[1] T.s.n., September 13, 1978, pp. 8 & 28.

[2] Ibid, p. 10.

[3] Exhibit "E", Original Record, pp. 99-100.

[4] Exhibits "B", "C" & "D", Original Record, pp. 96--98.

- [5] T.s.n., July 17, 1978, p. 6.
- [6] Exhibit "G", Original Record, p. 102.
- [7] T.s.n., June 22, 1979, p. 18; Progress Report, p. 2, or Original Record, p. 111.
- [8] Exhibit "H", Original Record, pp. 103 & 104.
- [9] Exhibit "I" Original Record, pp. 105-107.
- [10] Exhibit "J", Original Record, pp. 108 & 109.
- [11] T.s.n., July 13, 1979, p. 19; Progress Report, p. 2 or Original Record, p. 111.
- [12] T.s.n., June 22, 1979, pp. 27-38; T.s.n., July 13, 1979, pp. 13 & 14.
- [13] T.s.n., August 11, 1980, p. 10.
- [14] Original Record, pp. 105 & 107.
- [15] Brief for the Appellee, pp. 10-12.
- [16] Exhibit "2", Original Record, p. 174.
- [17] Paa vs. Chan, 21 SCRA 753 (1967); People vs. Briosos, 37 SCRA 336 (1971).
- [18] Exhibit. "G" & "H", Original Record, pp. 102 & 103.
- [19] T.s.n., August 11, 1980, p. 28.
- [20] T.s.n., October 17, 1979, p. 5; August 18, 1980, pp. 23 & 26.
- [21] T.s.n., September 13, 1979, pp. 12 & 13.
- [22] Ibid. p. 50.
- [23] Original Record, p. 46.
- [24] T.s.n., September 13, 1979, pp. 7, 11, 14, 16 & 18.
- [25] T.s.n., August 11, 1980, p. 11.
- [26] T.s.n., July 16, 1980, p. 6.
- [27] Appellants' Brief, p. 7, Rollo, p. 67.
- [28] T.s.n., August 8, 1980, pp. 24 & 25; T.s.n., August 11, 1980, pp. 25 & 26.
- [29] T.s.n., August 8, 1980, p. 5; T.s.n., August 11, 1980, pp. 9 & 10.
- [30] People vs. Estocada, 75 SCRA 295 (1977); People vs. Lucero, 96 SCRA 694 (1980).
- [31] People vs. De la Fuente, G. R. Nos. 63251-52, December 29, 1983.

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