

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BERTITO BACUS ALIAS BALODOY, ABUNCIO SUMALPONG ALIAS
BUNCIONG, ARNOLD ARGUELLES ALIAS MANOLO SOTTO MANOS,
AND ANTONIO POLE...**

G.R. No. 60388. November 21, 1991

Ponente: PADILLA, J.

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PADILLA, J.:

Before the Court on automatic review is the decision* of the Court of First Instance of Zamboanga del Norte dated 12 August 1981 in Criminal Case No. 131 entitled "The People of the Philippines vs. Bertito Bacus alias Balodoy, Antonio Poleran alias Junior Poleran, Abuncio Sumalpong and Arnold Arguelles." The dispositive portion of the said decision reads:

"FOREGOING CONSIDERED, the Court finds each, and all the accused in this case, BERTITO BACUS, alias Balodoy, ANTONIO POLERAN, alias Junior Poleran, ABUNCIO SUMALPONG alias Bunciong, and ARNOLD ARGUELLES, alias Manolo Sotto Manos, GUILTY beyond reasonable doubt for the cold-blooded MURDER of a poorly-built, poorly nourished septuagenarian. VICENTE SUMALPONG in the evening of March 17, 1970, which offense is defined (sic) and punishable under Ar. (sic) 248 of the Revised Penal Code by reason of which the Court sentences ANTONIO POLERAN, alias Junior Poleran, to suffer an imprisonment of reclusion perpetua.

"It being established that accused ABUNCIO SUMALPONG, alias Bunciong, was the brain and mastermind of the murder conspiracy; being established further that the chief recruit (sic) and triggerman of the same was accused ARNOLD ARGUELLES, alias Manolo Sotto; and that accused BERTITO BACUS, alias Balodoy, had previous conviction for Homicide, the Court has to impose, as it HEREBY IMPOSES on said accused SUMALPONG, ARGUELLES and BACUS, the extreme penalty of DEATH.

"The accused in this case are further sentenced to pay jointly and severally to the heirs of their victim, the sum of P12,000.00 as death indemnity, and the sum of P30,000.00 for moral and exemplary damages, without subsidiary imprisonment in case of insolvency.

"The four (4) accused are finally sentenced to pay one-fourth (1/4) each for the costs.

"SO ORDERED."[1]

On 8 September 1987, accused Bertito Bacus and Abuncio Sumalpong in a letter[2] signified their intention to withdraw their appeal in this case on the grounds that they had lost interest in pursuing their appeal, that they believed withdrawal of their appeal would be more advantageous as they could be qualified for clemency; and, that they could no longer hire a lawyer to pursue their case, in effect, accepting the judgment of conviction against them. This letter prompted the Court to require prison authorities to verify and attest to the voluntariness of said withdrawal of appeal in a Resolution dated 22 September 1987.[3]

On 6 October 1987, Chief Penal Superintendent Victoriano A. Totaan complied with the Court's Resolution and attested that the withdrawal of appeal by accused Sumalpong and Bacus was indeed voluntary.[4]

On 18 October 1988, accused Bertito Bacus and Abuncio Sumalpong filed a motion reiterating the withdrawal of their appeal and praying for the commutation/modification of their sentences from death to life imprisonment in accordance with the provisions of Sec. 19, Article III of the 1987 Constitution which declares that any death penalty imposed be reduced to reclusion perpetua.[5] The Court granted the motion in a Resolution dated 25 January 1989 and noted in the same vein the letter dated 17 November 1987 of Arnold Arguelles expressing his desire to pursue his appeal.

This review therefore pertains only to Arnold Arguelles as the decision, insofar as the three (3) other accused are concerned, has become final.

This case began with the killing in cold blood of Vicente Sumalpong in the early evening of 17 March 1970 in his house located at Sitio Lubing Ugis, Barangay Galas, Dipolog City. The above-named victim, a septuagenarian, was killed by two (2) men while he was inside his house in the company of his septuagenarian wife, Agueda Regencia Sumalpong and his granddaughter, Aproniana Legados.[6]

The victim's wife and granddaughter testified that on 17 March 1970, two (2) men knocked on their door and pretended to have gone there to borrow the victim's vehicle. The victim's wife was then in the kitchen while the granddaughter was busy waxing the floor. The two (2) men had asked twice for a drink of water. The first pitcher of water was delivered by the victim's wife who, being of poor eyesight, was barely able to notice one of the men for the view of the other man was blocked by her husband. The second pitcher was delivered by the granddaughter who, after doing so, continued waxing the floor. When the granddaughter heard the men exclaim that "it was a hold-up" and saw one of them kick her grandfather Vicente Sumalpong, she ran to the kitchen to her grandmother and together the two (2) of them ran to the house of their nearest neighbor Ruben Abitona. On their way there, they heard two (2) gunshots fired.[7]

The victim, Vicente Sumalpong, was able to walk to the house of Abitona later but he expired on the way to the hospital in Dipolog. Autopsy reports of Dr. Venusto Bengua revealed that the victim died of two (2) gunshot wounds on the chest and at the side of the body.[8]

No clues were left by the killers except for a .22 caliber slug of a firearm found at the scene of the crime and another .22 caliber slug recovered from the body of the victim. For more than two (2) months and a half (1/2), the policemen were baffled and unable to discover the identities of the killers. At one point, the Chief of Police was even ready to turn over the case to the National Bureau of Investigation; however, Police Lieutenant Ciriaco D. Gonzales volunteered his talents to handle the case. P/Lt. Gonzales claims his first "lead" was uncovered when he investigated the victim's widow, granddaughter and son-in-law and established that a violent disagreement existed between the victim and his brother, the father of one of the accused herein, Abuncio Sumalpong, over a piece of land.[9]

The second "lead" in the case was revealed by Carmelita Orpiala, daughter of a tenant of Nonong Sumalpong (brother of the victim Vicente Sumalpong) to P/Lt. Gonzales. In P/Lt. Gonzales' testimony, he disclosed that:

"FISCAL BALISADO, continues:

(to P/Capt. Gonzales, direct:)

"Q What was your purpose in going to La Libertad with Sgt. Salaveria and Pat. Soronda?

A When I was informed that Abuncio Sumalpong, one of the suspects was residing in Manswagon, I decided

to go there and I have contacted one of the tenants of Nonong Sumalpong, the brother of the deceased... Fortunately, I was able to contact the daughter of one of the tenants.

Q Who (sic) is the name of the daughter?

A Cristeta.

Q Where was she when you met her?

A In their house in Mauswagon.

Q What was your purpose in contacting the daughter of one of the tenant of Nonong Sumalpong, the brother of the deceased?

A Because when I went there, I was informed that Cristeta was in Lubing-Ugis on the night of March 17, 1970, (Court: Lubing-Ugis is the sitio of Galas-Daku, Dipolog City, where the victim Vicente Sumalpong was gunned down.)

Q What has that to do with your contacting Cristeta?

A She informed me that she was in Galas in the evening of March 17, and while she was fetching water from the well of Esteban Zamoras in Lubing-Ugis, Arnold Arguelles, one of the accused approached her and told her not to tell any body in La Libertad that they met and when Cristeta asked shy (sic), Arnold Arguelles allegedly answered her that "you will learn of this tomorrow morning," So, on the basis of this information, I decided to return to Dipolog and reported my findings to the Chief of Police and the Mayor.

Q With that information that you gathered from Cristeta, what course of action did you take?

A After I have reported by (sic) findings, they asked me what action we would take, and I then requested the Mayor to lend me his jeep and provided me with more men because I intend to round up these people.

Q Who were they?

A Accused Bacus, Poleran and Arnold Arguelles."[10]

The records of the case reveal that the real name of Cristeta, the daughter of the tenant of Nonong Sumalpong, is Carmelita Orpiala, not Cristeta and that she would be presented as one of the prosecution witnesses.[11]

The manhunt for the suspects began and the first to be caught was suspect Bertito Bacus. Suspect Bacus was picked up in Sapang Dalaga, Misamis Occidental. He was brought to Dipolog City in the early evening of 6 June 1970 where he was positively identified by the widow, Agueda Regencia vda. de Sumalpong as the man she saw as she was giving them (the two (2) callers) a drink of water. That same evening, the statement of Bacus was taken and the following day it was subscribed before City Judge Manuel Dalman.[12] In Bacus' extrajudicial confession, he named herein accused-appellant Arnold Arguelles and accused Antonio Poleran as his co-actors in the murder.[13] The police also executed a re-enactment of the crime allegedly based on Bacus' extrajudicial confession where he narrated that it was Arnold Arguelles and Antonio Poleran, Jr. who went up the house and conversed with the victim Sumalpong while he was merely waiting by the stairs of the house.[14]

Thus, on 8 June 1970, the Provincial Fiscal then acting ex-officio City Fiscal of Dipolog filed the original information in this case for murder, against the three (3) accused: Bertito Bacus alias Balodoy, Arnold Arguelles and Antonio Poleran alias Junior Poleran.[15]

The next to fall was suspect Junior Poleran who was arrested in barangay Camansi, Moncayo, Davao del Norte at midnight of 29 July 1970. He was positively identified by the granddaughter who stated that he was the person she saw kicking her grandfather just before she ran to the kitchen. According to P/Lt. Gonzales, Poleran confessed

"that he was one in the group who murdered Vicente Sumalpong and pointed to (now accused) Abuncio Sumalpong as the mastermind"[16] on their way back to Dipolog. Poleran's written statement was taken by the police upon arrival at Dipolog, the contents of which prompted the Provincial Fiscal to amend the original information and filing the same in Court on 5 August 1970 upon the revelation of accused Poleran that Abuncio Sumalpong masterminded the plot to kill the victim, Vicente Sumalpong.[17]

The amended information dated 5 August 1970 reads:

"x x x

"The undersigned Provincial Fiscal and Ex-Officio (sic) City Fiscal of Dipolog, accuses BERTITO BACUS, @ Balodoy, ANTONIO POLERAN, @ Junior Poleran, ABUNCIO SUMALPONG and ARNOLD ARGUELLES, who is still at large, of the crime of 'MURDER' committed as follows:

"That in the evening on or about the 17th day of March, 1970, in Galas, City of Dipolog, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together, armed with revolvers, with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack and fired several shots to one VICENTE SUMALPONG thereby inflicting upon him three (3) gunshot wounds which caused his death shortly thereafter; and that as a result of the death of said victim, his heirs suffered the following damages, viz:

1. Indemnity for the death of victim P12,000.00
2. Loss of earning capacity 5,000.00
3. Moral damages 10,000.00
4. Exemplary damages 10,000.00

"CONTRARY TO LAW, with the qualifying circumstances of ALEVOSIA; the generic aggravating circumstances of known premeditation, abuse of superior strength, nocturnity (sic) and RECIDIVISM on the part of accused BERTITO BACUS, @ Balodoy, he having been previously convicted in Crim. Case No. 4151, for HOMICIDE, before the Court of First Instance of Zamboanga del Norte.

"City of Dipolog, Philippines, August 5, 1970."[18]

It was the extrajudicial confession of accused Antonio Poleran, naming and pointing to Abuncio Sumalpong as the alleged mastermind of the murder plot which led to the eventual arrest of Abuncio Sumalpong and which prompted the amendment of the information.[19]

On 7 September 1970, accused Bertito Bacus and Antonio Poleran, then already detained without bail recommended, were arraigned. On the same date, accused Abuncio Sumalpong escaped from custody. Two (2) weeks later, Sumalpong was re-arrested and eventually arraigned on 24 September 1970.[20]

Trial began on 28 January 1971 but the following supervening events happened:

- a) The application for amnesty filed by accused Bacus and Sumalpong on 16 July 1973 led to the suspension of the trial but it proceeded insofar as accused Poleran was concerned;
- b) Shortly after 20 December 1973 when the prosecution was through with its rebuttal evidence and had rested its case (as to accused Poleran alone), the Honorable Rafael T. Mendoza, then taking the sala of retired Judge Onofre Sison Abalos, obtained a transfer to the Cebu CFI leaving Branch I vacant although Honorable Dimalanes B. Bussan was designated as Acting Presiding Judge of Branch I.[21]

Finally, Honorable Simplicio M. Apalisok was appointed and assumed the Office of Presiding Judge of CFI,

Zamboanga del Norte, Branch I and trial on this case resumed on 9 August 1977 and by then the amnesty applications of Bertito Bacus and Abuncio Sumalpong had already been denied by the Director for Amnesty, Headquarters, Philippine Constabulary, Camp Crame, Quezon City in a letter dated 28 March 1977.[22]

The fourth accused and appellant herein, Arnold Arguelles, was finally arrested on 26 March 1977, more than seven (7) years from the date of the crime, in Sotter Valle, Zamboanga City where he was working in a government construction project under an alleged assumed name "Manolo Sotto Manos" after several alias warrants of arrest.[23] Accused-appellant Arguelles was arraigned on 24 June 1977 and pleaded not guilty.

Accused-appellant Arnold Arguelles' main defense is alibi. He asserts that prior to 17 March 1970 and even as early as 1967, he had already left his parents' hometown of Mauswagon, La Libertad, for Pagadian City, the hometown of his wife where he eventually established a flower pot shop near the plaza of the town. He claims to have been nowhere near the scene of the crime, as Pagadian City is twelve (12) hours from Dipolog City via non-stop travel by truck, and he was working on the day of the murder in his flower pot shop in Pagadian City.[24]

In his defense, Arnold Arguelles asserted that prosecution witnesses Police Lieutenant Ciriaco Gonzales and Carmelita Orpiala had an "axe to grind" against him. Arguelles disclosed that Police Lieutenant Ciriaco Gonzales once caught him dating his daughter which led to a slapping incident. As a matter of fact, he alleged that even after that incident, Police Lieutenant Gonzales used to seek him out, so that eventually he had to leave school and go back to his hometown of Mauswagon.[25] To substantiate this allegation, Arguelles presented a former schoolmate, Jose Y. Centeno, who testified that he witnessed the slapping incident and thus corroborated Arguelles' version.[26]

As to Carmelita Orpiala's testimony against him, Arguelles presented Rustico Delegero to show that Orpiala bore a grudge against him and that Orpiala's testimony is a mere fabrication, for Delegero allegedly saw her in barangay Mauswagon, municipality of La Libertad, Zamboanga del Norte on the very day she claimed to have been in Galas-Daku, Dipolog talking to Arguelles.[27] Arguelles also testified that the reason for Carmelita Orpiala's ill-will towards him stems from an incident sometime in 1966 when they had a misunderstanding over the payment of alcoholic drinks she was then selling - which he (Arguelles) refused to pay for - leaving her vowing to take revenge on him for the same, an incident which Rustico Delegero had also witnessed.[28]

The trial court convicted Arguelles and the three (3) other accused of the crime charged. The penalty imposed on Arnold Arguelles by the trial court was death. The trial court chose to believe Orpiala's testimony against Arguelles, declaring the alleged quarrel over the payment of drinks to be hardly possible at the time of the incident since Orpiala was then only sixteen (16) years of age and too young to dispense and sell alcoholic beverages to adult drinkers.[29] The trial court also found impossible that police sergeant Gonzales could have prodded, coached, persuaded or suggested the inclusion of the name of Arnold Arguelles in the extrajudicial confessions of accused Bacus,[30] Poleran,[31] and Sumalpong[32] for nowhere in their testimonies did they mention anything to that effect, thus leading the trial court to declare that said three (3) other accused could only have narrated and defined the direct participation of accused-appellant Arguelles in the conspiracy and actual commission of the cold-blooded murder of Vicente Sumalpong.[33] Finally, the trial court dismissed appellant Arguelles' alibi as it declared such alibi to be supported only by his relatives and friends and tailored to fit unbelievable places, dates and events.[34]

In his brief filed with this Court, Arguelles presents the following arguments:

1. The trial court committed reversible error in considering the extrajudicial confessions of co-accused Bertito Bacus, Antonio Poleran and Abuncio Sumalpong as evidence against accused-appellant Arnold Arguelles for, as

against him, said confessions are hearsay, aside from the fact that said three (3) other accused retracted said confessions in court, branding them as involuntary for having been obtained through maltreatment, intimidation and promise of reward or leniency.

Arguelles thus submits that the extrajudicial confessions of the three (3) other accused should be deemed inadmissible against him for the settled rule on the matter is that "extrajudicial statements of an accused implicating a co-accused may not be utilized against the latter unless repeated in open court." [35]

2. Appellant also faults the trial court's disregard of his alibi notwithstanding the absence of positive identification of the appellant as one of the perpetrators of the crime charged by alleged eyewitnesses Agueda Regencia Vda. de Sumalpong and Aproniana Legados. Appellant contends that the evidence for the prosecution merely showed that two (2) persons went to the house of victim Sumalpong in the early evening of 17 March 1970 as narrated by the victim's widow and granddaughter and these two (2) men had already been positively identified as Bertito Bacus and Antonio Poleran.

Arguelles argues that he was never positively identified as a participant in the crime, for he was not identified by the victim's granddaughter, Aproniana Legados and that the identification made by the victim's widow was highly untrustworthy for she herself had admitted that her eyesight was poor and that she barely recognized one of the men by his complexion, later identifying the man as Bertito Bacus. Arguelles suggests that his identification by the victim's widow could only have been precipitated by the fact that he was already inside a cell when said identification was done.

Moreover, Arguelles questions the fact that the granddaughter, also an eyewitness and more capable of positive identification due to her unimpaired vision, was never made to identify him. Arguelles thus submits that the evidence presented by the prosecution did not at all prove his identity as one of the perpetrators of the murder in question and therefore his guilt was not proven beyond reasonable doubt. [36]

In the appellee's brief filed by the Office of the Solicitor General, it is submitted that the extrajudicial confessions of accused Bacus, Poleran and Sumalpong are admissible against accused-appellant Arnold Arguelles for the confessions corroborate facts and/or circumstances duly established by other evidence, to wit:

"1. The recovery of Dr. Bengua of a caliber .22 slug inside the body of the victim and by the police of another caliber .22 slug at the crime scene, is corroborated by question and answer No. 51 of accused Poleran's extrajudicial confessions (Exhibit 'W') stating that he personally saw appellant Arguelles in possession of a .22 caliber paltik revolver with six (6) rounds of ammunition when they were about to board a motorcab on their way to their intended victim.

"2. The testimony of prosecution witness Carmelita Orpiala that she saw and met appellant Arguelles within the vicinity of the victim's house on March 17, 1970, is corroborated by Question No. 21 of Sumalpong's extrajudicial confession (Exhibit 'X'), to wit:

'21. Q - When you and Arnold Arguelles arrived in Dipolog, where did you go?

A - I brought him in the house of my mother in Galas, where we took our breakfast. And after which, I brought him within the vicinity of the house of my uncle, the late Vicente Sumalpong to acquaint him of the terrain.'

"3. Appellant Arguelles' implication in the extrajudicial confessions (Exhibits 'D', 'W' and 'X') of his three co-accused (Bacus, Poleran and Sumalpong) corroborates his unexplained flight from his home immediately after the commission of the crime to evade arrest as well as his use of the alias 'Manolo Sotto Manos' (Exhibit '4-A-Arguelles') to confuse or mislead the law enforcement agencies of the government. These facts/circumstances indeed constitute circumstantial evidence indicative of guilt.

"4. The testimonies of the victim's widow and granddaughter that the victim was killed in the evening of March 17, 1970 are also corroborated by question and answer no. 25 of Sumalpong's extrajudicial confession (Exhibit 'X') that early in the morning of March 18, 1970, Arguelles went to see him [Sumalpong] at his house in Mauswagon, La Libertad and reported that 'the job has already been done.'"[37]

The Office of the Solicitor General likewise branded as devoid of merit the contention of appellant Arguelles that he was never properly identified since Arguelles was positively identified by Carmelita Orpiala as the person she met beside the well of one Esteban Zamoras. It is, therefore, submitted by the Office of the Solicitor General that said circumstance taken together with other circumstantial evidence leaves no room for doubt as to the guilt of appellant Arguelles.[38]

At this point, it would be appropriate to bear in mind the principle which the 1935, the 1973 as well as the present 1987 Constitution have enshrined which is, that every person is presumed innocent until the contrary is proved.[39] This constitutional presumption of innocence can be overcome only by proof beyond reasonable doubt, which is the degree of proof that, after investigation of the whole record, produces moral certainty in an unprejudiced mind of the appellant's culpability.[40] Such moral certainty is lacking in this case due to the inadmissibility of some evidence presented by the prosecution and material inconsistencies in the rest of the evidence.

Ordinarily, trial court's findings of fact carry great weight for these courts have the advantage of examining the demeanor of the witnesses while on the witness stand, and therefore, they can discern if these witnesses are telling the truth or not. The exception arises when (1) the conclusions is a finding based entirely on speculations; (2) the inference made is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgement is based on a misapprehension of facts; and (5) the court, in making its findings, went beyond the issues of the case and the same are contrary to the admission of both the appellant and the appellee.[41]

The conviction of accused-appellant Arnold Arguelles by the trial court was grounded on the admission as competent evidence of the extrajudicial confessions of the three (3) other accused, namely: Bertito Bacus, Antonio Poleran and Abuncio Sumalpong. These confessions allegedly point to accused-appellant's presence as well as direct participation in the murder of Vicente Sumalpong on that fateful evening of 17 March 1970. These confessions should, however, have been deemed inadmissible against accused-appellant Arguelles for said confessions are hearsay as against him. Moreover, these confessions were recanted and repudiated by their authors for alleged maltreatment and/or promise of reward or leniency. Besides, accused-appellant Arguelles never had the chance to cross-examine the affiants in regard to the contents of their confessions insofar as they implicated him.

The fact therefore that the trial court chose to give credence to these confessions as against the confessants [the three (3) other accused in this case] is irrelevant and immaterial to accused-appellant Arguelles' cause as "it is a basic rule of evidence that the right of a party cannot be prejudiced by an act, declaration or omission of another,"[42] and this is embodied in the legal maxim "res inter alios acta alteri noceri non debet." [43]

The Office of the Solicitor General argues that these extrajudicial confessions should be admissible in evidence against Arguelles for they corroborate facts and/or circumstances duly established by other evidence, such as the recovery of the .22 caliber slugs in the body of the victim Sumalpong and in the crime scene; the testimony of prosecution witness Carmelita Orpiala that she saw, met and conversed with accused-appellant Arguelles within the vicinity of the victim's house on 17 March 1970 with Arguelles allegedly asking her not to divulge his presence to anyone for reasons which she would learn the next day; and the testimonies of the granddaughter and the widow that the murder occurred in the early evening of 17 March 1970. Thus, it is submitted by the Office of the Solicitor General that these circumstances taken together prove beyond doubt appellant Arguelles'

participation in the commission of the crime charged.

We are not persuaded by these submissions for the reason that the circumstances mentioned only prove that there was indeed a murder committed on 17 March 1970 in the presence of the victim's granddaughter and widow. Both the widow and the granddaughter had positively identified the assailants as the accused Bertito Bacus and Antonio Poleran. The glaring fact is that both eyewitnesses testified that the two (2) persons who were the assailants were Bertito Bacus and Antonio Poleran. Nowhere is it found in their testimonies that they ever saw accused-appellant Arguelles or, for that matter, any other third person during the night of the murder.

The alleged identification by prosecution witness Carmelita Orpiala of accused-appellant Arguelles as the person she met within the vicinity of the scene of the crime is dubious. For one, this circumstance is refuted by defense witness, Rustico Delegero whose testimony included the fact that he had seen Carmelita Orpiala in a different place on the same date. Then, the content of the testimony of Carmelita Orpiala, by itself, i.e., that Arguelles had confided in her and asked her not to reveal his presence in the vicinity of the crime, runs counter to criminal behavior or to normal human behavior, for that matter, as not only is it uncharacteristic of a killer about to execute a murder, especially one who had recruited others to commit a crime, as the prosecution would have us believe, to talk to anyone prior to the commission of the crime and possibly reveal something which could make him a suspect, but it also tasks one's imagination to believe that one (who allegedly eluded capture for seven (7) years) was talkative and dumb enough to reveal to someone a murder he was about to commit, that someone being a person whom he once disagreed with over money and who vowed to take revenge against him.

Even assuming, for the sake of argument that Carmelita Orpiala had indeed seen Arnold Arguelles in the afternoon of the date of the crime, said circumstance could only be considered circumstantial and would not at all carry the same weight as would make the extrajudicial confessions corroborative, for she is not an eyewitness to the crime like the victim's widow Agueda Regencia vda. de Sumalpong or the victim's granddaughter, Aproniana Legados.

The trial court refused to believe the occurrence of a previous quarrel between accused-appellant Arnold Arguelles and prosecution witness Carmelita Orpiala, striking down as unlikely that a sixteen (16) year old girl then would be dispensing alcoholic drinks to adults.[44] The trial court's disregard of this matter is a misjudgement for provincial lasses have been known to start working, even to get married, at an earlier age than sixteen (16), so it is not at all unlikely that Carmelita Orpiala was already dispensing alcoholic drinks at that time and that she could have had an altercation with accused-appellant Arguelles.

Police Lieutenant Gonzales' actions are even more suspect. It is observed that the first "lead" that he allegedly uncovered was the violent disagreement of the victim Vicente Sumalpong with his brother who was by then deceased, and yet the information which was first filed in the trial court did not even mention the name of the brother's son and one of the accused herein, Abuncio Sumalpong anywhere.

It is also strange that Police Lieutenant Gonzales never picked up Arnold Arguelles for questioning upon knowledge of the second "lead" for the possibility is that he had indeed thought him to be residing in Mauswagon, La Libertad. Another strange thing is that having been informed of his whereabouts in Pagadian City where Arguelles owned a shop bearing his name, he (Gonzales) merely went there once and having missed Arguelles never returned again. It would have been a simple matter for him to stake out the flower pot shop until he was able to arrest Arguelles. In fact, Arguelles' arrest in the compound of the headquarters of the Philippine Army is indeed strange for one who is supposedly in flight would not go to work in an area where his chances of being caught are magnified. His transfer to Zamboanga City cannot be considered as "flight", as the trial court so considered, for Arguelles had not known the reason for the visits by the police and therefore was not running

away from anyone or anything.

When Police Lieutenant Gonzales took the statement of Bertito Bacus, an unlettered man, he questioned him in English and then translated the same to Cebuano Visayan. The answers given him were in Visayan and answers he translated and typed himself in English. After the taking of the statement of Bacus, he immediately proceeded with the reenactment even though the statement was yet to be subscribed with the judge.[45] There seemed to be too much unnecessary urgency to conduct said reenactment. It is also noted that while it may be true that the alleged confession of Bertito Bacus was read to him by City Judge Manuel D. Dalman of Dipolog City Court, Branch I, the Court notes that the alleged confession is in English and Bertito Bacus is admittedly an unlettered man such that even if the confession was read back to him he would not have understood a single word no matter how schooled he was in the "university of experience".

In sum, the evidence of the prosecution against Arnold Arguelles is sadly lacking the force by which the conviction by the trial court can be sustained. Without the confessions of the three (3) other accused and absent any other direct evidence to prove direct participation in the crime, the evidence against Arguelles does not prove beyond reasonable doubt his guilt in the crime charged, as the evidence were, at best, circumstantial.

Furthermore, the Rules of Court provide that each of the following requirements be present to sustain conviction by circumstantial evidence alone, namely:

- a) There is more than one circumstance;
- b) The facts from which the inferences are derived are proven; and
- c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[46] In the case at bar, the prosecution has failed to meet the last two (2) requirements of this rule and for this reason, its case must necessarily fail.

Courts should generally exercise great care and vigilance to insure that a verdict of conviction is supported by sufficient and competent evidence and not the result of passion and prejudice for it is fundamental that the prosecution, to secure conviction for any crime, must rely on the strength of its own evidence and not on the weakness of the defense, as its duty is in demonstrating where culpability lies.[47]

This Court is the vanguard of people's freedom. Its duty is to safeguard the rights of every person accused of a crime. It may deprive the accused of his freedom only when proof beyond reasonable doubt is presented against him. The phrase "beyond reasonable doubt" means not a single iota of doubt remains present in the mind of a reasonable and unprejudiced man that a person is guilty of a crime. Thus, in instances where doubt exists, even if only a shred, this Court must and should set the accused free.

WHEREFORE, upon reasonable doubt, the trial court's judgement as to accused-appellant Arnold Arguelles is REVERSED and he is hereby ACQUITTED of the crime charged.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, and Regalado, JJ., concur.

* Penned by Hon. Simplicio M. Apalisok, Presiding Judge, Branch I, CFI, Zamboanga del Norte in Dipolog City.

[1] Rollo, pp. 66-67.

[2] Rollo, p. 321.

- [3] Rollo, p. 326.
- [4] Rollo, pp. 337-340
- [5] Rollo, p. 346
- [6] Rollo, p. 2
- [7] T.S.N., Isaachar Gako, December 7, 1971, pp. 3-9; T.S.N., Evelyn Daymiel, February 8, 1973, pp. 3-8.
- [8] T.S.N., Isaachar Gako, January 28, 1971, pp. 4-6.
- [9] Rollo, p. 13; T.S.N., Daymiel, E.J., April 12, 1971, pp. 5-6.
- [10] T.S.N., Daymiel, E.J., April 12, 1971, pp. 6-7.
- [11] Rollo, p. 14.
- [12] Rollo, p. 15.
- [13] Exhibit D.
- [14] Exhibit D for the Prosecution, p. 4.
- [15] Rollo, p. 16.
- [16] T.S.N., Calo, C, April 28, 1971.
- [17] Rollo, p. 17.
- [18] Rollo, p. 9.
- [19] Rollo, p. 17.
- [20] Ibid.
- [21] Rollo, p. 19.
- [22] Rollo, pp. 17-19.
- [23] Rollo, pp. 25-26.
- [24] T.S.N, L.A. Bustaliño, December 9, 1980, p. 6.
- [25] T.S.N, L.A. Bustaliño, December 9, 1980, pp. 6-10.
- [26] Rollo, p. 27.
- [27] Ibid; T.S.N., E.N. Cruz, February 10, 1981, pp. 19-22.
- [28] T.S.N., L.A. Bustaliño, December 9, 1980, pp. 8-9.
- [29] Rollo, p. 27.
- [30] Exhibit D.
- [31] Exhibit W.
- [32] Exhibit X.
- [33] Rollo, p. 28.

[34] Rollo, 60.

[35] Rollo, pp. 389-390; *People v. Fraga*, 109 Phil. 241, citing *People v. Izon*, 104 Phil. 690; *People v. Gomez*, 101 Phil. 1056.

[36] Rollo, pp. 396-398.

[37] Rollo, pp. 489-490.

[38] Rollo, p. 490.

[39] Sec. 17, Art. IV, 1935 Constitution; Sec. 19, Art. IV, 1973 Constitution; Sec. 14(2), Art. III, 1987 Constitution.

[40] *People v. Matos-Vidaya y Balpa*, G.R. No. 60025, 11 September 1990.

[41] *People v. Yutuc y Tellis*, G.R. No. 85290, 26 July 1990, 188 SCRA 1.

[42] Section 28, Rule 130, Rules of Court.

[43] *Gevero v. IAC*, G.R. No. 77029, 30 August 1990.

[44] Rollo, p. 27; Decision of CFI Zamboanga del Norte, Branch I in Criminal Case No. 131 entitled "*The People of the Philippines vs. Bertito Bacus, et al.*", p. 17.

[45] T.S.N., Evelyn Daymiel, February 12, 1971, p. 15.

[46] *People v. Balansi alias Ban-os*, G.R. No. 77284, 19 July 1990, 187 SCRA 56; Rule 133, Sec. 5 of the Rules of Court.

[47] *People v. Pasco*, G.R. No. L-41909, February 14, 1983, 120 SCRA 596.

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