

ANGEL SAMPAGA Y DELOS REYES, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. 62305. November 23, 1992

Ponente: NOCON, J.

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NOCON, J.:

Angel Sampaga y de los Reyes was charged before the Court of First Instance of Rizal with the crime of Homicide, under an information which reads:

“That on or about the 7th day of April, 1976 in Quezon City, Philippines, the above-named accused, without any justifiable motive, did, then and there wilfully, [sic] unlawfully and feloniously, with intent to kill, attack, assault and employ personal violence upon the person of one MARCIANO SORIA y POSEDIA, by then and there, stabbing him on his chest, thereby inflicting upon his person serious and mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said MARCIANO SORIA y POSEDIA, in such amount as may be awarded to him under the provisions of the Civil Code.”

“Contrary to law.”[1]

On the basis of the evidence adduced by the prosecution, petitioner was found guilty beyond reasonable doubt of the crime charged. The dispositive portion of the decision reads:

“WHEREFORE, the Court finds the accused ANGEL SAMPAGA Y DE LOS REYES guilty beyond reasonable doubt of the crime of homicide charged against him in the information and hereby sentences him to an indeterminate penalty of SIX (6) YEARS and ONE (1) day of prision mayor, as minimum, to FOURTEEN (14) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of reclusion temporal, as maximum, together with the accessory penalties; to indemnify the heirs of the deceased Marciano Soria y Posedia, in the amount of P12,000.00 without subsidiary imprisonment in case of insolvency; and to pay the cost.

SO ORDERED.”[2]

The facts of the case are as follows:

At about 9:30 in the evening of April 7, 1976, the deceased Marciano Soria, cousin of herein petitioner, Angel Sampaga together with Carlos Eduque, Herminigildo Soria (brother of the deceased) and Eduardo de Castro had a drinking spree at the residence of Angel Sampaga. In the course of their drinking, Marciano Soria and Angel Sampaga came to a heated argument. Sensing that the two would resort to violence, Eduardo de Castro left. Carlos Eduque, fearing that violence might ensue, also left and stayed at the nearby Jack’s Restaurant. After a few minutes, the daughter of Angel Sampaga called Carlos Eduque for assistance because Marciano Soria was stabbed. Upon arrival of Carlos Eduque at the scene of the crime, the victim, Marciano Soria was being rushed to the hospital.

Marciano Soria succumbed at the Quirino Memorial Hospital and the medico-legal necropsy report[3] reveals that the cause of death is cardiorespiratory arrest due to shock and intra-abdominal hemorrhage as a result of a stab

wound on the trunk.

On May 21, 1976, a patrolman assigned with the Criminal Investigation Division, Integrated National Police, Quezon City Police station conducted an investigation on the death of Marciano Soria. Petitioner-accused Angel Sampaga was informed of his constitutional rights, more particularly, his right to remain silent and to the assistance of counsel.[4] Angel Sampaga made a voluntary statement admitting the killing which was reduced to writing.[5] Likewise, he revealed where the weapon used in killing Marciano Soria can be found.[6] Three witnesses namely, Carlos Eduque, Eduardo de Castro and Herminigildo Soria were also investigated and their respective statements were reduced into writing.[7] They were not however presented during trial, hence, their respective statements have no probative value. Even then, their statements say that they were not present during the stabbing incident.

The only evidence then left against the accused-petitioner is his extra-judicial confession.

In the light of the facts, was the extra-judicial confession of the accused petitioner admissible in evidence or was the same acquired in violation of his constitutional rights?

Before the investigation, Detective Joy Diaz orally informed petitioner of his constitutional rights to remain silent and to counsel.[8] The warning was repeated in the course of the investigation and embodied in the sworn statement which reads:

Exhibit “B”, “B-1”[9]

TANONG: “Ikaw ay sinisiyasat sa salang PAGPATAY kay MARCIANO SORIA y POSEDIA, ng Josephine’s Tropical Restaurant, Cubao, dito sa Quezon City. Bago ka siyasatin kailangan malaman mo ang inyong mga karapatan. Ikaw ay may karapatan na manatiling tahimik; ikaw ay may karapatan na hindi magbigay ng ano mang salaysay kung iyong nanaisin. Ano man ang sabihin mo ay maaaring gamitin laban o pabor sa inyo sa ano mang usapin. Ikaw ay may karapatan din na matulungan ng isang Abogado na gusto mo. Kung hindi mo kaya ang kumuha ng Abogado, ikaw ay bibigyan bago siyasatin. Sa kabila nito lahat, ikaw pa rin ay nakahandang magbigay ng isang malaya at kusang loob na salaysay na ang lahat ng inyong sasabihin dito ay totoo at pawang katotohanan lamang?”

SAGOT: “Opo.”

Exhibits “C”, “C-1”[10]

TANONG: “Ikaw ay sinisiyasat dito tungkol sa pagkamatay ni MARCIANO SORIA y POSEDIA. Bago ka siyasatin kailangan malaman mo ang iyong karapatan. Ikaw ay may karapatan na manatiling tahimik. Ikaw ay may karapatan na hindi magbigay ng ano mang salaysay kung iyong nanaisin. Ano man ang sabihin mo ay maaaring gamitin laban sa iyo sa ano mang usapin. Ikaw ay mayroon karapatan na matulungan ng isang Abogado na gusto mo. Kung hindi mo kaya ang kumuha ng Abogado, ikaw ay bibigyan bago ka siyasatin.”

SAGOT: “Opo.”

The law in point is Section 20, Article IV of the 1973 Constitution, as the extrajudicial confession of accused-appellant was executed in 1976. Said provision states:

“No person shall be compelled to be a witness against himself. Any person under investigation for the commission of an offense shall have the right to remain silent and to counsel, and to be informed of such right. No force, violence, threat, intimidation, or any other means which vitiates the free will shall be used against him. Any confession obtained in violation of this section shall be inadmissible in evidence.”

The fact is petitioner was warned prior to his interrogation that he has the right to remain silent; that any statement

he does make may be used as evidence against him; and that he has the right to the presence and assistance of an attorney.

Petitioner admitted in his sworn statement his participation in the killing of his cousin Marciano Soria which reads:

“04. T: Ano ang dahilan at ikaw uli ay nagbibigay ng inyong salaysay?

S: Dahil sa pagpatay ko kay MAR-CIANO SORIA na aking pinsan.

“05. T: Saan at kailan naganap ang na-sabing pangyayari?

S: Humigit kumulang alas 9:30 ng gabi ng Abril 7, 1976 sa may “Alley” sa may malapit ng pintuan ng aming bahay sa No. 148 P. Tuazon Blvd., Cubao, Quezon City.

“06. T: Ano ang ginamit mo sa pagpatay kay MARCIANO SORIA na iyong pinsan?

S: Kutselyo po.”

It was also the petitioner who showed the police authorities where he kept the fatal weapon by taking them to his house and thereafter surrendered the weapon he used in killing Marciano.[11]

Petitioner however invokes self-defense in his sworn statement.[12] Having admitted the killing, it is incumbent upon him to establish his claim of self-defense by clear and convincing evidence. This he failed to do by refusing to adduce evidence in his defense.

The Court of Appeals agreed fully with the findings of the trial court in this regard, to wit:

“Assuming the accused’s statement Exhibits “B” and “B-1”, to be true, there would be present [sic] unlawful aggression. There would be unlawful aggression because according to him, while the accused’s brother Benigno Sampaga was inquiring from the deceased about the “Texas” cock which he had asked him to buy and the accused intervened also making the same inquiry, twenty minutes thereafter, after Benigno Sampaga had left, the deceased suddenly drew out his knife and gave a thrust to the accused.

“On the same assumption that his statement is true, there would also be lack of sufficient provocation because the intervention of the accused in making the same inquiry is not a provocative act. It does not constitute an act adequate to arouse the victim to deliver the stab blow. But there would be no reasonable necessity of the means employed to repel the unlawful aggression of the deceased. On this point, the accused alleged in his statement:

‘14. T: Isalaysay mo ang buod ng pang-yayari?

S: x x x noong nakasibat naman ako, doon nagalit na yong namatay. Dito nakita ko na bigla na lang hinugot noong namatay yong panaksak na kutselyo galing sa kanang paa niya, at biglang sinaksak sa akin. Mabuti na lang nailagan ko at sa kanya ko rin natama. x x x

‘15. T: Isinadya mo bang ipatama kay MARCIANO SORIA ang kutselyo?

S: Hindi po dahil lang sa pagaa-gawan namin tumama sa kanya.’

“In other words, the accused claimed that the knife hit the deceased in the process of their struggle to prevent it from hitting him. This claim is unbelievable. It is unbelievable because according to the postmortem findings of Dr. Desiderio Moraleda, the stab wound sustained by the deceased was so deep that the stab blow must have been intentionally inflicted and with great force. Thus, he described the wound as:

‘Stab wound through and through, right hypochondriac region, measuring, 7 by 3 cm., 18 cm. deep, 7 cm. from the anterior midline, directed anteriorwards, slightly upwards and to the left, fracturing the 8th rib, lacerating the

mesentery, liver and gall bladder, passing through the 8th intercostal space along the posterior axillary line with a point of exit at the right infrascapular region, measuring 0.5 by 0.2 cm., 9 cm. from the posterior midline.'

"It is incredible that if the wound was inflicted in the process of their struggle, it would attain such depth of 18 centimeters, would fracture the 8th rib, lacerate the mesentery, [sic] liver and gall bladder, and would reach up to the right infra-scapular region. The only reasonable conclusion from such finding is that the accused must have wrested the knife from the deceased and in turn delivered a resounding thrust to the deceased causing him to sustain said stab wound. This is again on the assumption that there was struggle as claimed.

"If the accused was able to wrest the knife from the deceased, his life was no longer in peril and there was no longer necessity to take the life of the latter. In so doing, the accused became the aggressor.

"The prosecution proved the killing by the sworn statement of the accused. There is evidence of the corpus delicti. The knife Exhibit "I" used in the killing was recovered by Detective Joy Diaz. It was recovered because it was pointed to by the accused himself. The cause of death, according to the necropsy report of Dr. Desiderio Moralda is 'cardiorespiratory arrest due to shock and intra-abdominal hemorrhage as a result of a stab wound of the trunk' which was inflicted by the accused. The accused refused to present evidence against the inculpatory evidence of the prosecution. His conviction becomes in order." [13]

In the case at bar, other than informing petitioner of his right to remain silent and to counsel, petitioner was not provided with a counsel or given an opportunity to secure one, lulled perhaps by Section 20, Article IV of the 1973 Constitution which merely provides the right to counsel of the accused unlike Section 12 of the 1987 Constitution which specifies in detail how the right to counsel shall be exercised to preclude constitutional objections.

However, in the light of the recent case of *People vs. Dacoycoy et. al.*, [14] applying retroactively the principle laid down in *People vs. Galit* [15] -- that the waiver by a suspect of his rights while under custodial investigation to be valid, must be made in the presence of and with the assistance of counsel -- to confessions given by suspects during custodial investigations prior to April 26, 1983 (the date the doctrine was laid down in *Morales vs. Ponce Enrile, et al.* [16] and *Moncupa vs. Enrile, et al.* [17]), petitioner is entitled to acquittal as his extra-judicial statements were taken without the presence of counsel. Said the court:

"In *Galit* and *Pecardal*, it must be stressed, the principle was made to apply to confessions given by suspects during custodial investigations prior to April 26, 1983. In *Galit*, the extrajudicial confession was executed sometime in 1977; in *Pecardal*, 1982. The Court then saw no impediment, constitutional or otherwise, to the application of the doctrine to confessions made before April 26, 1983. The Court sees none at this time."

In the case of *People vs. Pecardal* [18] the court made the following observation:

"It is true that the original requirement laid down in *Morales vs. Enrile* (121 SCRA 538) was not supported by the majority of eight required by the Constitution. Nonetheless, the doctrine announced therein was later affirmed in *People vs. Galit*, (135 SCRA 465) with fourteen members of the Court voting in favor and only one not taking part. The same rule was only recently reiterated in the case of *People vs. Sison* (G.R. No. 70906) decided last May."

Be that as it may, the present rules on extra-judicial confession under the 1987 Constitution require that waiver of the right to be informed of one's right to remain silent or to have competent and independent counsel must be made through the assistance of a counsel and in writing. [19]

WHEREFORE, the appealed decision is hereby REVERSED AND SET ASIDE, and the accused-appellant Angel Sampaga y De Los Reyes is ACQUITTED, with costs de officio.

SO ORDERED.

Narvasa, C.J., (Chairman), and Regalado, JJ., concur.

Padilla, J., separate concurring opinion.

Melo, J., no part.

[1] Records, p. 1.

[2] Records, p. 158.

[3] Exhibit "J", Records, p. 115.

[4] T.S.N., February 15, 1977, p. 26.

[5] Exhibit "B", "B-1", "C", "C-1", T.S.N., November 9, 1976, p. 9.

[6] T.S.N., November 9, 1976, p. 59; T.S.N., February 16, 1977, pp. 8, 15.

[7] T.S.N., November 9, 1976, pp. 48, 50, 53.

[8] Id., at pp. 41-43; T.S.N., February 15, 1977, p. 22.

[9] Records, pp. 105-106.

[10] Records, pp. 107-108.

[11] T.S.N., February 15, 1977, pp. 3-5.

[12] Records, p. 106.

[13] Records, pp. 144-158.

[14] G.R. No. 71662, May 8, 1992.

[15] No. L-51770, 135 SCRA 465, (1985).

[16] G.R. No. 61016, 121 SCRA 538, (1983).

[17] G.R. No. 61107, 121 SCRA 538, (1983).

[18] No. L-71381, 145 SCRA 647, (1986).

[19] Sec. 12, Article III, 1987 Constitution.

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SEPARATE CONCURRING OPINION**PADILLA J.:**

In the Court's decision penned by Mr. Justice Nocon, petitioner Angel Sampaga is acquitted of the crime charged as his extra-judicial statements were taken without the presence of counsel, applying the ruling in *People vs. Dacoycoy, et al.* (G.R. No. 71662, May 8, 1992). In said case, this Court held that:

"x x x, even before the effectivity of the 1987 Charter, the need of assistance of counsel as a pre-requisite for according validity and effect to a waiver of rights in custodial investigation laid down by the 1973 Constitution, was already existent. Since appellant Latoga's extra-judicial confession was admittedly given by him without the assistance of counsel, it should not have been admitted in evidence against him, and since that confession constitutes his only link to the felony of robbery with homicide with which he is charged, no finding of guilt thereof may be made against him."

The right to counsel attaches upon the start of an investigation, i.e., when the investigating officer starts to ask questions to elicit information and/or confessions or admissions from the respondent/accused. At such point or stage, the person being interrogated must be assisted by counsel to avoid the pernicious practice of extorting false or coerced admissions or confessions from the lips of the person undergoing interrogation, for the commission of an offense. (Christopher Gamba vs. Hon. Alfredo Cruz, etc., No. 56291, June 27, 1988, 162 SCRA 642).

In the following cases, the Court also disregarded the extrajudicial confessions obtained from the accused, result-ing in their acquittal.

In *People vs. Edgardo Lim, et al.* (G.R. No. 90021, May 8, 1991, 196 SCRA 809), it was held that:

"As to appellant Rodolfo Ramirez, no prose-cution witness identified him to be among the kidnappers. The only evidence presented against him is his alleged extrajudicial confession dated September 1, 1981 which was taken by Sgt. Alfredo Miranda. While said appellant admits his signa-ture thereon, he denies the truth therewith alleging he was only forced into signing the same without knowing its contents and that he was then blindfolded, manhandled and threatened.

xxx

"To the mind of the Court what is decisive is the fact that the extrajudicial confession of appel-lant Ramirez was taken without the assistance of counsel and his alleged waiver of the assistance of counsel was not also made in the presence of counsel. This fatal omission renders the said extrajudicial confession inadmissible as evidence against appellant Ramirez."

In *People vs. Arsenio Caponpon* (G.R. No. 7 145 November 21, 1991, 204 SCRA 116) this Court ruled that:

"The incontrovertible fact alone that the confession was made during custodial investiga-tion in the absence of counsel renders that par-ticular piece of evidence totally inadmissible and the lower court gravely erred in not dismissing the same."

Based on the above-mentioned decisions, it would seem that a confession is invalid when it was taken without the assistance of counsel or when an alleged waiver by the accused of the assistance of counsel was not made in the presence of counsel.

But the above rule is not without exception. Where there is independent evidence, apart from the accused's uncounseled confession, that the accused is truly guilty, the latter faces a conviction.

Mr. Justice Teehankee, in a Concurring Opinion in *People vs. Manalang* (No. L-47136-39, July 25, 1983, 123 SCRA 583), stated that:

"xxx the extrajudicial confession obtained by the police from the accused on August 12, 1977 (one day after the commission of the crimes) without the assistance of counsel nor a clear and intelligent waiver thereof is patently inadmissible under the mandate of section 20 of the Bill of Rights (Article IV) of the Constitution.

xxx

"Even disregarding the invalid confession, however, the record clearly establishes the guilt of the accused as

stated in the Court's decision (at page 11), the accused subsequently made a judicial confession of his guilt and entered a plea of guilty, with the due assistance of counsel de oficio, followed by the taking of evidence to establish beyond reasonable doubt the circum-stances surrounding the killings and the authorship thereof." (Underscoring supplied).

This Court also ruled in *People vs. Enrique* (G.R. No. 90738, December 9, 1991, 204 SCRA 674), that:

"We note however that, during the investigation, the accused-appellant, unassisted by counsel, wrote his name on the rolled marijuana cigarettes. Pat. Quebalayan testified that the accused affixed his name thereon voluntarily and that this gesture was intended as a security against substitution (TSN, July 6, 1989, p. 24). Yet, he and the other arresting officers exerted no efforts to inform the accused-appellant of his rights under custodial investigation. In effect, appellant's act amounted to an admission of his culpability in violation of the Constitution. Such admission is therefore inadmissible as evidence (see *People v. Peralta*, G.R. No. 86172, March 4, 1991 and *People v. dela Marinas*, G.R. No. 87215, April 30, 1991). Notwithstanding this setback for the prosecution, appellant cannot be acquitted because his conviction did not rest solely on his admission. He has completely failed to rebut by contrary evidence the testimonies and documentary evidence presented by the prosecution." (Underscoring supplied).

The only question in this case is whether or not such independent evidence exists. It has been pointed out that the petitioner-accused himself revealed where the weapon used in killing the victim could be found and he subsequently surrendered it to the police. Does this constitute independent evidence or was it embraced in the custodial interrogation?

In *People vs. Marcos P. Jimenez, et al.* (G.R. No. 82604, December 10, 1991, 204 SCRA 719), the Court held that:

"The interrogation of Marcos Jimenez having been conducted without the assistance of counsel, and no valid waiver of said right to counsel having been made, not only the confession but also any admission obtained in the course thereof are inadmissible against Marcos Jimenez. This, too, is the explicit mandate of the Constitution: any confession or admission obtained in violation among others of the rights guaranteed in custodial investigations shall be inadmissible in evidence against the person making the confession or admission. This is so even if it be shown that the statements attributed to the accused were voluntarily made, or are afterwards confirmed to be true by external circumstances."

It can be argued for the prosecution that petitioner-accused would not have revealed where the fatal weapon was if he did not have anything to do with the killing of the victim. It would be unlikely for an innocent person to admit the killing of someone and even go to the extent of surrendering the crucial weapon to the police.

But it would still appear that the admission made by the petitioner-accused is excluded by the Constitution being an admission during a custodial interrogation, without the assistance of counsel. And it could be said, as field in *People vs. Marcos*, that the voluntariness of said admission does not affect the fact that it was obtained in violation of constitutionally guaranteed rights.

Thus, in the absence of independent evidence apart from petitioner's extrajudicial confession, the Court has no choice but to acquit the petitioner for failure to prove his guilt beyond reasonable doubt.

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