

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SABAS POYOS ALIAS BOY, LILIOSA POYOS ALIAS LILY AND FLORENCIO POYOS ALIAS LOR, ACCUSED, FLORENCIO POYOS ALIAS LOR, ACCUSED-APP...

G.R. No. 63861. August 19, 1986

Ponente: CRUZ J.

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CRUZ J.:

The crux of this case is the admissibility of an extrajudicial confession signed under oath by the accused-appellant but later repudiated by him at the trial. The resolution of this question hinges on the proper interpretation of Article IV, Section 20, of the 1973 Constitution.

Sabas Poyos, his wife Liliosa Poyos, and Florencio Poyos were accused of murdering Paula Angoy, a 77-year old woman, on August 12, 1980, in Balilihan, Bohol, by hitting her on the neck with a piece of wood.[1] Only Florencio Poyos was arraigned and tried because his co-accused had escaped and remained at large. After trial, Florencio Poyos was found guilty of the charge, "with the qualifying circumstances of treachery, evident premeditation, abuse of strength and in consideration of a prize, reward or promise and the generic aggravating circumstance of disregard of the respect due to the offended party on account of her age or sex and that the crime was committed in the dwelling of the offended party, who had not given any provocation." [2] He was sentenced to death.[3]

The cause of Paula Angoy's death was certified as cerebral hemorrhage by the first witness for the prosecution, Dr. Vito Inting, district health officer of Catigbian, Bohol, who relied merely on information supplied him by Sabas Poyos, the grandson-in-law of the deceased.[4] The woman had already been buried at the time of his certification. One year later, because of suspicions of foul play, the body was exhumed and an autopsy was conducted thereon by a PC medico-legal officer, Dr. Ladislao V. Diola, Jr., who discovered a contusion in the nape which was "compatible with the massive hemorrhage to the base of the brain" that could have caused Paula Angoy's death. There was no other injury.[5]

On the strength of this report, Pat. Ranulfo Tabudlong, the third witness for the prosecution and a police investigator, invited the three accused for questioning. He was able to interrogate only Florencio Poyos because the other two could no longer be found, having departed for parts unknown. The result of the interrogation was an extrajudicial confession from the accused-appellant, subscribed by him before Maria Cleofe L. Clarin, clerk of court of the CFI, Bohol, and later submitted in evidence against the accused.[6] As the fourth and last witness for the prosecution, Clarin testified that the confession was freely signed in her presence after the suspect had avowed that it was duly taken from him.[7]

The only witness for the defense was the accused-appellant himself, who completely denied the charge against him. His claim was that Paula Angoy was already dead when he arrived at her house on August 12, 1980, and was told by Sabas Poyos that the victim had died from an accidental fall from a horse. The accused-appellant said he

had merely helped in bringing the dead woman to her bed and in cleaning the room which was spattered with blood. He attended the woman's wake and even the prayers for the dead and remained all the time in Balilihan although he was offered money by the spouses to leave the town. While he admitted receiving certain amounts of money from Sabas and Liliosa Poyos, he said this was because he used to render them sundry services like sawing logs.[8]

Most importantly, Florencio Poyos categorically disowned his extrajudicial confession that he had killed Paula Angoy by hitting her on the nape with a piece of wood pursuant to an agreement with the spouses Poyos and Anastacia Uy, and that he had received more than P4,000.00 for his services. He complained of additions in the statement to what he had actually said to the investigator. He also said he did not know how to read and could write only his name and that he signed the statement, which had been prepared beforehand, out of fear of the police who said they would make "mamon" out of him if he did not do as they ordered. In short, he attacked the confession as false and coerced and not knowingly made.[9]

For its part, the prosecution insisted that the extrajudicial confession was perfectly valid because it complied with all the requirements of the Constitution. The accused was duly informed of his rights to be silent and to counsel. Despite such advise, he knowingly waived his right to counsel and "insisted on being interrogated." [10] His answers were given spontaneously and forthrightly, and no force, violence, intimidation or threat was imposed upon him. All this was in fact verified beforehand by Clerk of Court Clarin, the subscribing officer, before the affiant actually signed the affidavit.[11]

The whole case of the prosecution rests on the extrajudicial confession, and so does the decision itself of the trial court. It is therefore important to examine the validity of this document as the only criterion to determine the innocence or guilt of the accused-appellant.

Article IV, Section 20, of the 1973 Constitution reads as follows:

"Sec. 20. 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 above provision was inspired by the doctrine announced by the Supreme Court of the United States in the cases of *Escobedo v. Illinois*[12] and *Miranda v. Arizona*[13] for the protection of persons facing custodial investigation. These persons were often the victims of police brutality and other forms of coercion that were inflicted upon them to extract from them what came later to be notoriously branded as "sunrise confession." They were so called because it was often during the early hours of the morning, after grueling interrogation throughout the night, that the suspect's resistance would begin to crumble. Driven to the point of exhaustion, he would finally agree to sign any confession just to relieve himself of the physical and mental pressure being exerted on him by the investigating officers.

To prevent such treatment, Chief Justice Earl Warren laid down the following rules in *Miranda*:

"Our holding will be spelled out with some specificity in the pages which follow but briefly stated it is this: the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination. By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken onto custody or otherwise deprived of his freedom of action in any significant way. As for the procedural safeguards to be employed, unless other fully effective means are devised to inform accused persons of their right of silence and to assure a continuous opportunity to exercise it,

the following measures are required. Prior to questioning the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. The defendant may waive effectuation of these rights, provided the waiver is made voluntarily, knowingly and intelligently. If, however, he indicates in any manner and at any stage of the process that he wishes to consult an attorney before speaking, there can be no questioning. Likewise, if the individual is alone and indicates in any manner that he does not wish to be interrogated, the police may not question him. The mere fact that he may have answered some questions or volunteered some statements on his own does not deprive him of the right to refrain from answering any further inquiries until he has consulted with an attorney and there-after consents to be questioned."

Significantly, the above rules are based on the Sixth Amendment of the U.S. Constitution guaranteeing to the accused the right *inter alia* to the assistance of counsel for his defense "in criminal prosecutions." The right was extended to custodial investigations only by judicial interpretation in the aforestated cases. In our country, however, the right to counsel is expressly made available to any person even before he is formally indicted and actually tried, i.e., while he is still only facing investigation for the commission of an offense. A separate guaranty is made for the trial itself in Section 19 of Article IV, which states that "in all criminal prosecutions," the accused shall enjoy "the right to be heard by himself and counsel."

We observe at the outset that, if true, the accused-appellant's complaints about the extrajudicial confession could have been avoided if he had been assisted by counsel during his custodial investigation. We therefore address ourselves to the primary question of whether or not there was a valid waiver of the right to the assistance of a lawyer who could have advised the accused?appellant during his interrogation or even invoked for him his constitutional right to be silent and to refuse to submit to any questioning whatsoever.

The waiver was supposed to have been made as follows:

"FOREWORD:

Mr. Florencio Poyos, you are informed that as of now, you are under investigation in connection with the unusual incident wherein you are implicated. You are reminded that according to Section 20, Article IV of our Constitution, you have the right to remain silent and to hire a lawyer of your own choice that could help you when you are propounded with questions. You are also reminded that every word you say will be used against you in favor of you in Court. Do you understand this?

ANSWER:

Yes, sir, I understand.

QUESTION:

After you are informed of your rights, do you agree to continue this investigation even if for the moment you have no lawyer to help you?

ANSWER:

I do agree, sir."^[14]

It is doubtful, given the tenor of the question, whether there was a definite waiver by the suspect of his right to counsel. His answer was categorical enough, to be sure, but the question itself was not as it spoke of a waiver only "for the moment." As worded, the question suggested a tentativeness that belied the suspect's supposed permanent foregoing of his right to counsel, if indeed there was any waiver at all. Moreover, he was told that he could "hire a lawyer" but not that one could be provided for him for free.

There is no question, of course, that this right was available to the accused-appellant since the confession was taken on May 27, 1981, or after the promulgation of the 1973 Charter. The applicable decision is *Magtoto vs. Manguera*,^[15] to the effect that the aforesaid Section 20 should have only a prospective application, beginning January 17, 1973, when the 1973 Constitution took effect. This ruling has since been consistently affirmed in a number of subsequent cases.^[16]

Apart from the lack of assistance of counsel, we note that the extrajudicial confession suffers from certain inherent flaws that also render it inadmissible in evidence against the accused-appellant.

We agree that there are some suspicious parts thereof that bolster the claim of the defense that additions were intercalated, like the following exchange between the investigator and the accused-appellant

"Q:

Do you know why you are here in the office of the Investigator of the Philippine Constabulary, Camp Dagohoy, City of Tagbilaran?

A:

To be asked searching questions in relation to my implication of a big crime that happened in the residence of Anastacia Uy at Barangay Baucan Sur, Balilihan, Bohol, last August 12, 1980, at around six o'clock in the late afternoon more or less."^[17]

The answer sounds more like the language of an experienced investigator rather than of an illiterate farmer and laborer and lends credence to the accused-appellant's claim that the statement had been prepared in advance by the police for him to sign later.

There is the added circumstance that it took three days before the accused-appellant actually subscribed his statement and it is conceivable that during that period, the police continued intimidating him into doing so.^[18] We do not doubt that the clerk of court assured herself that the affiant clearly understood his rights and the consequences of his waiver of assistance of counsel and that he was signing the confession freely. Even so, it is possible that she was not aware of the covert pressure being exerted upon him, which probably continued up to the time he signed the statement while a PC soldier, his guard, stood "somewhere near the door."

It is also worth noting that while the other co-accused, Sabas and Lilia Poyos, transferred from their residence after the tragedy and were not seen again in Balilihan, the accused-appellant never left the place although the spouses offered him money so he could go away.^[19] Could it be that they were urging him to leave to divert suspicion from them and focus it on Florencio Poyos? The latter, incidentally, was only a distant cousin of Sabas Poyos, and he said he occasionally worked for Sabas, who actually gave him no more than P700.00, not the P4,000.00 mentioned in the extrajudicial confession.^[20] Florencio Poyos was expendable to the spouses and could have been a convenient scapegoat if they were really guilty of the killing of Paula Angoy.

Finally, we make the observation that Florencio Poyos' decision not to leave his house despite the opportunity to do so, and with the money offered by the spouses Poyos, is hardly characteristic of a guilty person seeking to escape retribution for his crime. We are satisfied that he stayed because he did not feel he had to leave; and this because he had done nothing wrong and had nothing to hide. "The wicked flee when no man pursueth, but the righteous are as bold as a lion."

The prosecution has failed to prove the guilt of the accused-appellant beyond reasonable doubt. The conviction of the accused must rest not on the weakness of the defense but upon the strength of the prosecution. The case of the prosecution has crumbled like a frail edifice because it has been built on the shifting sands of a void

confession; by contrast, the conduct of the defendant after the tragedy strengthens rather than denies his claim of innocence. All these considerations dictate that the accused-appellant be as he is hereby declared not guilty.

As the highest tribunal of the land, the Supreme Court should be the most vigilant of our free institutions in the protection of every individual regardless of creed or caste against the officiousness of power. This need becomes all the more imperative if the person is deprived of the amenities of life, like a good education or political or social influence, that will normally embolden him to protest and resist whenever his liberties are threatened. Lacking such fortitude, he is nonetheless not entirely defenseless. The obscure and lowly citizen can still look up to this Court for his shield and armor and, more than that, for his swift sword of retribution against the outrage to his rights.

WHEREFORE, the judgment of the lower court is hereby REVERSED and the accused-appellant is ACQUITTED. No costs.

SO ORDERED.

Teehankee, C.J., Feria, Yap, Fernan, Narvasa, Melencio-Herrera, Alampay, Gutierrez, Jr., and Paras, JJ., concur.

[1] Orig. Rec., p. 1.

[2] Rollo, pp. 5-6.

[3] Ibid., p. 18.

[4] TSN, April 1, 1982, pp. 5-6.

[5] TSN, June 8, 1982, pp. 11-13.

[6] TSN, June 30, 1982, pp. 21-22, pp. 28-31, p. 34, Exhs. D & E.

[7] TSN, Sept. 14, 1982, pp. 29-30.

[8] TSN, Oct. 25, 1982, pp. 37-43, p. 53.

[9] Ibid., pp. 45-54.

[10] TSN, June 30, 1982, p. 24.

[11] TSN, Sept. 14, 1982, pp. 28-30.

[12] 378 U.S. 478.

[13] 384 U.S. 436.

[14] Exh. E, Orig. Rec., p. 6.

[15] 63 SCRA 4.

[16] People vs. Peña, 80 SCRA 589; People vs. Jimenez, 71 SCRA 186; People vs. Buscato, 74 SCRA 30; People vs. Bagasala, 39 SCRA 236.

[17] Exh. E, Orig. Rec., p. 6.

[18] Rollo, pp. 63-64.

[19] TSN, Oct. 25, 1982, p. 43.

[20] TSN, Oct. 25, 1982, p. 43 & TSN, Dec. 2, 1982, p. 52.

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