

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PEDRO OLAPANI Y TAOPA, JOSE TAOPA Y OLAPANI, DOMINGO TARIN Y TRESMANIO AND NESTOR FRANCISCO (AT LARGE), ACCUSED-APPELLANTS.

G.R. No. 69122. November 16, 1989

Ponente: NARVASA, J.

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NARVASA, J.:

Pedro Olapani, Jose Taopa, Domingo Tarin and Nestor Francisco were charged with the crime of robbery with homicide before the Regional Trial Court of Baguio and Benguet.[1] The indictment alleged that on or about November 6, 1980, in the City of Baguio, and acting in conspiracy with one another, they had robbed a taxi driver, Crisanto Alamar, of his day's earnings and then stabbed and killed him. Only the first three were arrested and arraigned, and after entering a plea of not guilty, stood trial. Nestor Francisco has not, it seems, been apprehended to this day. The trial resulted in a verdict of conviction, and the three (3) accused were each sentenced to suffer the penalty of reclusion perpetua, and solidarily, to indemnify the heirs of the deceased in the amount of P12,000.00 without subsidiary imprisonment in case of insolvency.

In the appeal seasonably taken by them to this Court the accused attempt to make the single point that "the Court a quo had erred in admitting and utilizing the extrajudicial confessions and statements of accused-appellants ** (in violation) of their right to counsel guaranteed by the constitution, and basing the judgment of conviction thereon." The point is well taken.

There is no dispute about the fact that Crisanto Alamar was stabbed to death, and his money taken from him. There were however no eye-witnesses either to his killing, or to the asportation of his earnings. Nobody was presented to identify the appellants as the perpetrators of the felony. Their conviction was anchored primarily on the written statements given by them in the course of the investigation by police investigators in which they admitted involvement in the crime,¹ considered conjointly with admittedly adequate proof of the corpus delicti.²

The appellants' confessions set forth the following facts, to wit:

- 1) in the evening of November 6, 1980, at Baguio City, they (Domingo Tarin, Jose Taopa, and Pedro Olapani), together with Nestor Francisco, boarded the Rubi Rose taxi driven by Crisanto Alamar and asked to be brought to Hillside, Baguio City;
- 2) on the way, Olapani pointed a knife at the neck of Alamar and announced: "Hold-up ito;" Tarin thereupon took over the steering wheel and the others forced Alamar to move to the back seat;
- 3) at this point, Alamar struggled and kicked Tarin's back; Tarin pulled out his nail cutter and with the small knife attached to it, stabbed Alamar in the abdomen;
- 4) further down Kennon Road, Olapani ordered Tarin to stop the taxi; then, with Jose Taopa and Nestor Francisco holding Alamar, Olapani stabbed the latter with a knife; Nestor Francisco also stabbed Alamar;

5) they dumped Alamar's lifeless body by the roadside and took his earnings, after which they abandoned the taxi.

The police investigators took the witness stand to identify the sworn statements, attest to the regularity of their taking, and narrate the events leading to the appellants' apprehension. The doctor who performed the autopsy deposed on Alamar's injuries and the cause of his death. But, to repeat, no eye-witness testified, and except for their confessions, no other evidence was introduced to link the appellants to the crime.

The appellants repudiated their confessions. They denied having freely executed the same. The trial court nevertheless convicted them as aforesated, on the strength of their confessions.

In this appeal, appellants Olapani, Taopa and Tarin question their conviction on the basis of the confessions given by them under custodial interrogation. They contend that the same are inadmissible in evidence because obtained in violation of their constitutional rights. The Court agrees.

The Constitution,³ as every one knows, provides for procedural safeguards to secure the right of a citizen against self-incrimination during custodial interrogation. It grants the person under investigation for the commission of an offense the rights: (1) to remain silent; (2) to counsel; (3) to be informed of such right to silence and to counsel; and (4) against the use of force, violence, threat, intimidation or any other means which vitiates the free will; and it declares any confession obtained in violation of any of said rights, inadmissible in evidence in any proceeding.

The record supports the appellants' submissions of infringement of their rights. To begin with, it is doubtful whether appellants were indeed effectively informed of their rights to silence and counsel. A glance at their individual confessions at once shows that the statements therein purporting to demonstrate compliance with the constitutional requisites in custodial investigations -- said statements being identical in all three confessions -- fall short of the acceptable norms, viz.:

"Preliminary: Mr. Domingo Taren y Tresmanio, I am informing you that I am Pfc Gilbert T. Oasan who is assigned to investigate you in connection with your involvement in a case of robbery with homicide and robbery with intimidation. Before giving any statement in this investigation, I would like to inform you that under the New Constitution, you have the right to remain silent, and the right to be assisted by a lawyer at your own choice; if you cannot afford to get a lawyer, we can refer you to the Integrated Bar of the Philippines, Baguio Chapter, Baguio City; should you wish to give your statement in this investigation, it will be under oath and can be used as evidence for or against you in any court proceedings in the Philippines.

Q Have you fully understood all your rights mentioned above?

A: Yes.

Q I will investigate you in Tagalog language and I will translate all my questions and your answers in English. Do you fully understand and speak Tagalog very well?

A: Yes.

Q You have the right to remain silent which means you may not give your statement if you so desire, do you understand?

A: Yes.

Q Do you need the services of a lawyer who will assist you in this investigation so we refer you to the Integrated Bar of the Philippines, Baguio Chapter if you cannot afford to secure a lawyer?

A: I do not need a lawyer to assist me in this investigation.

Q Are you then willing to give your free and voluntary statement even without the assistance of a lawyer and even if it will be used as evidence for or against you in any court proceedings?

A: Yes.¹

Now, about such a lengthy opening question, this Court has had occasion to remark:²

"Such a long question followed by a monosyllabic answer does not satisfy the requirements of the law that the accused be informed of his rights under the Constitution and our laws. Instead, there should be several short and clear questions and every right explained in simple words in a dialect or language known to the person under interrogation."

The police interrogators knew, since the statements themselves so disclose, that none of the appellants had gone beyond the elementary level of education,¹ and their limited education was therefore a handicap to a ready and effective understanding of the meaning and purpose of their constitutional rights. It was the duty of the investigating officers under these circumstances to have exerted a little more effort to ensure that information of their rights would be adequately transmitted to the appellants and understood by them. For, as we have already also had occasion to rule:²

"When the Constitution requires a person under investigation 'to be informed' of his right to remain silent and to counsel, it must be presumed to contemplate the transmission of meaningful information rather than just the ceremonial and perfunctory recitation of an abstract constitutional principle. * * * In other words, the right of a person under interrogation 'to be informed' implies a correlative obligation on the part of the police investigator to explain, and contemplates an effective communication that results in understanding what is conveyed. Short of this, there is a denial of the right, as it cannot truly be said that the person has been 'informed' of his rights. Now, since the right 'to be informed' implies comprehension, the degree of explanation required will necessarily vary, depending upon the education, intelligence and other relevant personal circumstances of the person under investigation. Suffice it to say that a simpler and more lucid explanation is needed where the subject is unlettered."

The manner by which, admittedly, appellants were informed of their rights thus leaves much to be desired.

Even if we were to view the proceedings before the police in the most favorable light, and assume that the appellants really came to understand their rights, but waived them, and proceeded to answer the questions put to them, their statements would nonetheless still be inadmissible in evidence because the waiver had been made without assistance of counsel. Admittedly, the rights of a person under custodial interrogation are waivable. However, the waiver must be made not only voluntarily, knowingly and intelligently, but, in any case, in the presence and with assistance of counsel. If the records do not show that the accused was assisted by counsel in making his waiver, this defect nullifies and renders his confession inadmissible in evidence.³

The confessions of appellants being void and inadmissible in evidence, and there being no other evidence to support the conviction of appellants, the judgment appealed is hereby SET ASIDE and the appellants ACQUITTED of the charge against them. Costs de oficio.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] The case was docketed as Criminal Case No. 2590, and assigned to Branch III of said Court, presided over by Hon. Leonardo M. Rivera.

1 Exhibits D, E, F and G.

2 Sec. 3, Rule 133 of the Rules of Court provides that "An extrajudicial confession made by an accused shall not be sufficient ground for conviction unless corroborated by evidence of corpus delicti.

3 Section 20, Art. IV, 1973 Constitution; Section 12 pars. 1, 2 and 3, 1987 Constitution.

1 Exhibits D and D-4, statement of Domingo Tarin, Lower Court Record, p. 135.

2 Peo. v. Galit, 135 SCRA 465

1 See Exhibits D, E and F, pp. 135, 137, 139, Lower Court Record.

2 Peo. v. Nicandro, 141 SCRA 289, 298, cited in Peo. v. Duhan, 142 SCRA 100; Peo. v. Pinlac, G.R. No. 74123-24, Sept. 26, 1988

3 Sec. 12 (1) and (3), ART. Ill, Constitution; People v. Galit, supra; People v. Newman, 163 SCRA 496; People v. Nolasco, 163 SCRA 623.

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