

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
NESTOR ENCISO ALIAS “DAGUL” JESSIE ABE SUYONG,
ARMANDO BALASBAS, ACCUSED-APPELLANTS.**

G.R. No. 77685. April 15, 1988

Ponente: PARAS, J.

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PARAS, J.:

The hapless victim of this crime Norberto Lonzaga_y Coronas, a mere 13-year old boy, was a balut vendor. At about 2:30 a.m. of November 18, 1980 his body was found dead, sprawled at the corner of Sikap and Kayumanggi Streets in Mandaluyong, Metro Manila. His chest bore nine (9) stab wounds (Exh. E, E-1, E-2). Pfc. Romeo Santiago of the Anti-Organized Crime Task Force received the corresponding report and he informed his team leader, Pfc. Alejandro Aliwalas, about it. Together with Pat. Fructuoso Capacillo who resides in the vicinity of the crime, they formed a three-man investigation team. The whole day of November 18, 1980, they interviewed a number of people who might be able to shed light on the killing of the victim. Among the persons interviewed were the victim's father. Elpidio Lonzaga, and balut vendors Rodolfo Escano, Pelagia Cruz, and Roberto Ballante.

Rodolfo Escano informed the investigators that before midnight of November 17,1980, he saw the victim and the three appellants sleeping together in a parked passenger jeep at the corner of P. Cruz and Boni Avenue in Mandaluyong. Pelagia Cruz confirmed the observation of Escano and further stated that she even borrowed an icepick from accused Nestor Enciso to punch a hole in a can of milk. She returned the icepick to Enciso. Escano referred the investigators to Ballante who allegedly knew the appellants' residence.

At around 1:00 a.m. of November 19, 1980, Escano pointed to the police a shanty on Calbayog St. in Mandaluyong where appellants reside. The policemen immediately secured the place and then proceeded to enter the shanty. Pat. Capacillo peeped through the door that was ajar and saw Enciso and Balasbas who were then sleeping. The policemen entered the shanty and woke them up. Enciso admitted stabbing the victim with an icepick. He implicated Suyong and Balasbas. That same morning, the police detained Enciso and Balasbas for further investigation. Before noon of November 20, 1980, Suyong was arrested and was also detained.

On November 20, 1980, Pfc. Damaso Miranda, Jr. conducted an investigation of the three after which they executed sworn statements admitting participation in the killing of the victim. At about 4:00 p.m. of the same day, a re-enactment of the crime was made. The sworn statements and the re-enactment show that

"On the night stated in the information Nestor Enciso. met Jessie Abe y Suyong and Armando Balasbas. Being Long-Time friends. Enciso proposed that they look for work. Jessie suggested that Enciso first attend to his balut-selling so that they may earn some amount for their fare. Mando Balasbas and Jessie were left behind at the front of the Cuadra Disco house at Boni Avenue while Nestor went to the Balut distribution center of Tony Fabillar. When Nestor returned with balut for sale on consignment, he was joined in by Jessie and Mando until they reached a gasoline station. The three accused became hungry so they ate the balut of Nestor intended for sale. Nestor reminded Armando Balasbas and Jessie Abe-Suyong that he will get short in his balut sales. They walked on further and they saw Norberto Lonzaga at a distance and this is where Jessie suggested to his

co-accused to waylay Berto so that they could have money to defray the balut shortage which Enciso had. They went ahead of Berto in going home and waited for him near the railway.

Upon reaching the railway and while Berto was on his way home, the three (3) accused walked with him until the corner of Sikay and Kayumanggi Streets of Mandaluyong. Jessie took hold of Berto Lonzaga's hands and with a handkerchief, gagged his mouth to prevent Berto from shouting and placed his red reversible jacket upon the head and Enciso stabbed Berto several times with an ice pick (Exhibit D).

As Norberto Lonzaga fell lifeless, Armando Balasbas (Mando) took the money from the pocket of Berto's short pants (Exhibits B and B-3) which amounted to P21.00, P15.00 of which was spent to purchase rice and the P5.00 was given to Jessie. The act of killing Berto by the accused was planned before hand (Exhibit H p. 2 Records) and this was done at about 11:00 P.M. evening of November 17, 1980." (pp. 16-17, Rollo)

On November 22, 1980, the police submitted its written report. Thereafter, an information for robbery with homicide was filed before the Regional Trial Court, Pasig, Metro Manila, against the three accused. The said information reads —

"That on or about the 18th day of November, 1980, in the municipality of Mandaluyong, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding one another, accused Armando Balasbas, being 14 years old but acting with discernment, by means of violence, threats, and intimidation and with intent of gain, did then and there willfully, unlawfully and feloniously take from, divest and rob one Norberto Lonzaga Coronas of the amount of P21.00, against his will and consent, thereby causing damage and prejudice to said Norberto Lonzaga Coronas in the aforementioned amount of P21.00; that on the occasion of said robbery and for the purpose of enabling them to take and steal the money, said accused, in the furtherance of their conspiracy and armed with an icepick, with intent to kill, by means of treachery and evident premeditation and taking advantage of their superior strength, did then and there willfully, unlawfully and feloniously attack, assault and stab with said ice pick said Norberto Lonzaga Coronas on the vital parts of his body, thereby inflicting upon the latter mortal stab wounds which directly caused his death.

Contrary to law." (pp. 15-16, Rollo)

Upon arraignment on February 4, 1981, all the accused entered a plea of not guilty. However, when the case was called for hearing on March 3, 1981, the accused Nestor Enciso and Jessie Suyong, through counsel manifested their desire to withdraw their former plea of not guilty and to enter instead a plea of guilty. The trial fiscal, Rodolfo S. Mateo, gave his conformity thereto. Thereafter on proper motion to withdraw former plea of not guilty made by Atty. Jose Leagogo, the same was granted by the Court, after which both accused were re-arraigned accordingly and they voluntarily and spontaneously pleaded guilty to the crime charged in the information. (Order dated March 3, 1981 p. 65 Original Record) The trial court also ruled in the same Order that —

"However, considering the gravity of the crime imputed against both accused which is a capital offense and the nature of the penalty which the Court may have to impose, let the mandatory presentation of evidence by the prosecuting fiscal commence simultaneously with the trial of the remaining accused, Armando Balasbas (Order dated March 3, 1981, supra)

After trial, the lower court rendered judgment, the dispositive portion of which reads —

"WHEREFORE, in view of all the foregoing considerations, it is the opinion of this Court and so holds that all the accused are GUILTY BEYOND REASONABLE DOUBT of the crime of Robbery with Homicide described and made punishable by paragraph No. 1, Article 294 of the Penal Code and each is therefore sentenced as follows:

NESTOR ENCISO alias Dagul, being the mastermind and acknowledged leader of the group is sentenced to DEATH by electrocution;

JESSIE ABE SUYONG is likewise sentenced to DEATH by electrocution as co-principal of the crime committed;

The execution of the above-named accused shall be carried out at a place, time and date to be designated by the Director of Prisons, Muntinlupa, Metro Manila;

ARMANDO BALASBAS being a minor or a youthful offender as understood in Art. 189 of the Youth and Welfare Code (PD 603), but who acted with discernment is hereby sentenced to imprisonment for the REST OF HIS NATURAL LIFE (Cadena Perpetua).

The accused Armando Balasbas is, however, recommended to the Chief Executive for clemency by remitting his sentence upon service of a minimum of twenty (20) years to enable him to avail of reformation and a tranquil return to society should he not avail of the provisions of Art. 192 of the aforesaid Code (PD 603).

All the accused, aside from the above sentence are likewise directed to indemnify the heirs of the deceased in the sum of P12,000.00 to be paid share and share alike and the costs of the proceedings.

Let the entire record of this case be transmitted to the Supreme Court without delay for the mandatory renewal required by law.

SO ORDERED." (pp. 67-68, Rollo)

The aforesaid decision is now before Us on automatic review. Appellants claim that the lower court erred (a) in admitting hearsay evidence to prove the commission of the crime (b) in basing its findings and conclusions on said hearsay evidence and (c) in admitting the written statements of the accused.

The Solicitor General recommends that the assailed decision be reversed and all the accused acquitted for the following reasons—

A. Extrajudicial confessions of appellants are inadmissible.

Pfc. Damaso Miranda, Jr., conducted the investigation of the appellants separately. During the investigation, the only other person present apart from him and an appellant was Cpl. Gil Marquez, the officer-in-charge of the Anti-Organized Crime Task Force. Moreover, Miranda admitted that appellants were not assisted by counsel when they allegedly waived their right to counsel. He failed to rebut appellants' testimony that they were manhandled to force them to sign sworn statements. Under the foregoing circumstances, it is clear that appellants' sworn statements confessing conspiracy to robbery with homicide are inadmissible in evidence (*People v. Galit*, 135 SCRA 465; *People v. Lumayok*, 139 SCRA 1; *People v. Jara*, 144 SCRA 516).

B. Appellants were convicted on basis of hearsay evidence.

No eyewitness was presented to testify to the killing and robbery of the victim. The balut vendors who allegedly saw the victim with appellants a few hours before the crime was committed were not subpoenaed to testify for unknown reasons. Thus, the testimonies of the police which merely narrated the alleged statements of the balut vendors have no probative value for being hearsay. The defense was not afforded any opportunity to cross-examine these balut vendors interviewed by the police.

C. Appellants were victims of police brutality.

The prosecution failed to rebut the testimony of appellants that they were coerced to sign extrajudicial confessions by force and that they were not informed of their constitutional rights during custodial investigation. Indeed, such

failure to rebut is tantamount to an admission of appellants' allegations. Thus, their sworn statements are inadmissible in evidence.

Appellants were confined in the provincial jail from November 17, 1980 up to October 30, 1986 when they were convicted. On the latter date, they were transferred to the National Penitentiary where they remain confined to the present. All in all, appellants have been imprisoned for over seven years for a crime which was not proven to have been committed by them (Rec. pp. 24, 381, 390-391). Hence, they deserve their freedom." (pp. 73-75, Rollo)

It should be noted that the two accused Nestor Enciso and Jessie Suyong pleaded guilty to the offense charged in the information. And they have not questioned the validity of this

plea. It should likewise be noted that conspiracy is alleged in the information. A plea of guilty constitutes an admission of the crime and the attendant circumstances alleged in the information. Nonetheless, despite Enciso's and Suyong's pleas of guilty, We believe the pleas must not be taken against them, for as clearly borne out by the evidence presented, said guilt has not actually been proved beyond reasonable doubt. The fact that they did not appeal is of no consequence, for after all, this case is before Us on automatic review (that is whether appeal was made or not). Accordingly both Enciso and Suyong are ACQUITTED on reasonable doubt.

In the same vein and on reasonable doubt, the third accused Balasbas is ACQUITTED on reasonable doubt.

WHEREFORE, all three judgments of conviction are hereby REVERSED and SET ASIDE, and all the accused are ordered SET FREE immediately.

SO ORDERED.

Yap, Fernan, Narvasa, Gutierrez, Jr., Cruz, Gancayco, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.

Teehankee, C.J., did not take part in deliberations.

Melencio-Herrera, J., I join the dissent of Justice Aquino.

Feliciano, J., I join Mrs. Justice Griño-Aquino in her dissenting opinion.

Griño-Aquino, J., filed a dissenting opinion.

DISSENTING:

GRINO-AQUINO, J.,

G.R. No. 77685 (People of the Philippines vs. Nestor Enciso alias "Dagul", Jessie Abe Suyong, Armando Balasbas). - I respectfully disagree with the finding that the guilt of the accused, Nestor Enciso and Jessie Suyong had not been proven beyond reasonable doubt despite each having entered a plea of "guilty as charged" when, at their request through counsel, they were allowed to withdraw their original plea of "not guilty" and were rearraigned on March 3, 1981.

Any doubt as to their guilt has been erased by their voluntary pleas of guilty. Those pleas, made in open court, amount to a judicial confession, which cured whatever defects may have vitiated their sworn extrajudicial statements.

"While an unqualified plea of guilty is mitigating, it, at the same time, constitutes an admission of all the material facts alleged in the information, including the aggravating circumstances therein recited (People vs. Egido, 90 Phil. 762; People vs. Santos and Vicente, 105 Phil. 40). In such case, the prosecution need not prove the said circumstance since the accused, by his plea of guilty, has already supplied the requisite proof (People vs. Acosta, 98 Phil. 642; People vs. Rapirap, 102 Phil. 863)." (People vs. Apduhan, Jr., 24 SCRA 798.)

"There is, of course, the firmly settled jurisprudential principle that an unqualified plea of guilty constitutes an admission of all the material facts alleged in the information including the aggravating circumstances therein stated. Excepted therefrom are conclusions of fact, and mere conjectures. Thus it is, that a plea of guilty is sufficient to sustain a conviction of any offense charged in the information, even a capital offense, without the introduction of further evidence, the defendant having himself supplied the necessary proof (People v. Mongado, 28 SCRA 642, citing U.S. vs. Burlado, 42 Phil. 72, 74; People vs. Apduhan, 24 SCRA 798, 814; People vs. Arpa, L-26789, April 25, 1969 citing People vs. Boyles, L-15308, May 29, 1964 citing cases, People vs. Pujuinio, L-21690, April 29, 1969.)

Although Enciso and Suyong flip-flopped again more than a year later when they testified on July 2, 1982 and August 17, 1982 by denying any part in the killing of Lonzaga and in effect reverted to their original plea of not guilty still the foregoing testimony of their co-accused, the 15-year old minor Armando Balasbas, tacked to their pleas of guilty, constitutes proof of their guilt beyond a reasonable doubt.

"Q Mr. Balasbas, do you know the victim Norberto Gonzaga?

"A Yes, sir.

"Q Why do you know the victim Norberto Gonzaga?

"A He is my 'barkada,' sir.

"Q Do you remember if you were with Norberto Lonzaga on the night of November 18, 1960?

"A Yes, sir:

"Q Who were with you aside from Norberto Lonzaga on the night of November 18, 1980?

"A Mr. Nestor Enciso, Jessie Soluyong, sir.

"Q Will you please point to the court if Nestor Enciso is around?

"A Yes, sir. Accused pointing to Nestor Enciso.

"Q How about Jessie, is he around?

"A Yes, sir. He is there. Witness pointing to Jessie Suyong.

"ATTY. LEAGOCO

"Q

Do you know how the victim Norberto Lonzaga died? .

"A Yes, sir.

"Q Will you tell this Hon. Court how the victim died?

"A When the four of us were together and when we reached a dark place all of a sudden he was stabbed by Nestor Enciso.

"Q Do you know the reason why the accused Nestor Enciso stabbed the victim Norberto Lonzaga?

"A I do not know, sir.

"Q What did you do when Nestor Enciso stabbed the victim in this case?

"A None, sir.

"Q Did Mr. Jessie Suyong or Jesus Abe have any participation in the stabbing incident?

"A Yes, sir.

"Q What is his participation?

"A He was the one who held, sir.

"Q Prior to the stabbing incident, did Nestor Enciso inform you of his plan to stab the victim?

"A None, sir.

"Q Do you know what weapon was used by Nestor Enciso in stabbing the victim?

"A Yes, sir.

'Q Will you be able to tell the court at around what time did the stabbing incident happen?

'A About 2:00 A.M., sir.

"Q Do you know if the accused Nestor Enciso and Jesus Abe take anything from the victim after the stabbing incident?

"A There was, sir.

"Q What was taken from the victim?

"A The balut he was selling, sir.

"Q Was there any money taken from the victim?

'A Yes, sir.

"Q Did you participate in the division of the loot?

"A No, sir.

"Q After the stabbing incident where did you proceed?

"A I went home, sir.

However, I concur in the acquittal of the minor Armando Balasbas. The trial court's recital of the facts reveals that Balasbas did not actually participate in killing the victim Norberto Bonzaga. He also denied taking part in the division of the victim's balut eggs and money. Without his extrajudicial confession, there is no evidence to convict him.

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