

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RAFAEL OLIVAREZ, JR., AND DANILO ARELLANO, APPELLANTS.

G.R. No. 77865. December 04, 1998

Ponente: MARTINEZ, J.

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MARTINEZ, J.:

Involved in this case is the crime of robbery with homicide committed during the season of yuletide. The facts as narrated in the People's brief are as follows:

"Prosecution witness Sgt. Eduardo Marcelo testified that he took the statements of appellant Rafael Olivares, Jr. and one Purisimo Macaoili and verbal investigation of appellant Danilo Arellano because the latter refused to give any statement.

"Prosecution witness Cpl. Tomas Juan of the Valenzuela Police Station V testified that in the morning of December 28, 1981, he was assigned by his station commander to follow-up the robbery with homicide that took place at Tanada Subdivision, Gen. T. De Leon, Valenzuela, Metro Manila. He learned from Patrolman Bote that a regular employee of the Cardinal Plastic Industries (where the crime was committed) had not yet reported for work. With that information, Cpl. Juan accompanied by Pat. Rodriguez, Acharon, and Reyes proceeded to the business establishment and were able to confirm from the workers that appellant Danilo Arellano failed to report for work since the commission of the crime. Melchor Salle (cousin of appellant Arellano) volunteered to bring them to Danilo Arellano, in a factory situated in San Juan, Metro Manila. Thereat, Melchor Salle was able to secure information from the 'barkada' of appellant Arellano who turned out to be appellant Olivares, Jr. Appellant Olivares accompanied them to Broadway, Barangay Kristong Hari, Quezon City, where they found appellant Arellano. After being asked about the incident that took place at the Cardinal Plastic Industries, appellant Arellano readily admitted to the police authorities his participation in the commission of the crime. Thereafter, appellant Arellano was invited to the police station (pp. 4-9, TSN, November 3, 1982). On further direct examination, Cpl. Juan identified in open court the Sanyo cassettes, the tapes and the wristwatch they recovered from the place where appellant Arellano pointed to them. Said items were turned over to the police station (pp. TSN, Nov. 17, 1982).

"Prosecution witness Purisimo Macaoili testified that he found the dead body of Mr. Sy (Tiu Hui) in the morning of December 26, 1981 inside the building where the business establishment is situated. Mr. Sy was residing alone inside his room because at that time his wife was in Hongkong. Some of the workers also reside inside the business establishment. Mr. Macaoili also saw the dead body of the father of Mr. Sy (Zie Sing Piu) in the same building inside the establishment which was at that time registered as Foodman Company, a candy manufacturer (now Cardinal Plastic Industries). The bodies of the victims were about eight (8) to ten (10) arms-length apart. Thereafter, his companion Erning phoned Mr. Sy's brother who was then residing near Malacañang and informed him about the incident. Mr. Sy's brother arrived in the factory at around 6:30 o'clock in the morning and saw the bodies of the victims. The same brother asked for the assistance of the police who arrived at the scene of the crime and who conducted on-the-spot investigation. Later on and upon the direction of the police, the bodies of the victims were brought to the morgue. Mr. Macaoili did not notice any missing personal belongings of the victims at that time inside the building (pp. 4-13, TSN, Aug. 6, 1982).

Further, Mr. Macaoili testified that he came to know that the wristwatch, the cassettes, and other personal items of the victims were missing when appellants were apprehended. He knew the cassette and the wristwatch because said items had been used by the victim, Tiu Heu. He knew appellant Arellano because he is his barriomate at Tuburan, Iloilo and was a laborer at Foodman Industries long before December 26, 1981. He also knew appellant Olivarez, Jr. as they are also barriomates and worked somewhere in Quezon City. He testified that appellant Olivarez, Jr. twice visited the factory before December 26, 1981 and saw him two or three weeks before said date. He also saw appellant Arellano inside the compound of Foodman Industries on December 25, 1981. Appellant Arellano resides inside the compound of the factory staying in the other room with other co-workers apart from the room of Mr. Macaoili and the members of his family. He stated that the wristwatch worn by victim Tiu Heu was mortgaged to the latter by the former's friend named Raul (pp. 5-11, TSN, August 20, 1982)

"Prosecution witness, Sgt. Eduardo Marcelo of the PNP, Valenzuela, Metro Manila testified that he conducted an investigation on the person of Rafael Olivarez, Jr. at about 10:45 o'clock in the morning of December 29, 1981. Sgt. Marcelo apprised him of his constitutional rights. When informed, appellant Olivarez, Jr. declined any assistance of a lawyer during the investigation considering that he will tell the truth about the incident. Mr. Melchor Salle and the chief of Sgt. Marcelo were present during the police investigations. Sgt. Marcelo prepared a statement (Exhibit B) signed by appellant Olivarez, Jr. relative to the investigation (pp. 4-11, TSN, October 8, 1982).

"Prosecution witness Sika Chong testified Tiu Hu is his brother and other victim Zie Sing Piu is his father. On December 26, 1981, the victims were residing inside the factory situated at Gen. T. de Leon, Valenzuela, Metro Manila. Sika Chong did not witness the commission of the crime. He personally knew the two (2) radio cassettes belong to his father as said items were his birthday gifts sometime in 1977 (Exhibit C) and in 1980 (Exhibit D). He bought the cassettes (Sanyo brand) from a store at Cartimar. The small cassette costs him P700.00 and the big radio at 800.00. Along with the said items, he also bought five (5) tapes (Exhibits E, E-1 to E-4) (pp. 5-14, TSN, March 4, 1983).

"Prosecution witness Ong Tian Lay testified that victim Zie Sing Piu is his father and victim Tiu Hu is his brother. The victims were at the time of their death engaged in sago and plastic business. When they ceased operation in the sago business, they engaged in plastic manufacturing until the time of their death. He spent more than P40,000.00 for the funeral expenses of the victims and although the total receipts from Funeraria Paz amounted only to P13,000.00, he also spent other expenses totalling P40,000.00 (pp. 3-8, TSN, April 22, 1983). On further direct examination, Ong Tian Lay testified that he saw the publication about the death of his father and brother at the police department of Valenzuela, Metro Manila. He was able to get a clipping of the publication (Exhibit F). He could not remember the names of the newspaper where the victim's death were published but could remember that the incident was published in at least three (3) newspapers, one (1) in the Chinese language and two (2) in the English language (pp. 4-13, TSN, June 29, 1983).

"Prosecution witness Narciso Gador, factory worker of Cardinal Plastics, testified that the factory is owned by Ka Tiong Sy. He knew that the father of his employer is already dead as well his brother. He knew appellant Danilo Arellano because the latter is a former laborer of Cardinal Plastic. He only came to know the person of appellant Olivarez, Jr. after the incident. He saw appellants between the hours of 9:00 o'clock and 10:00 o'clock in the evening of December 25, 1981 inside the Delia's restaurant located at BBB, Valenzuela, Metro Manila. Narciso Gador and his companions arrived, they ordered beer while seated at another table. They left the restaurant between the hours of 9:00 o'clock and 10 o'clock in the evening of December 25, 1981 ahead of appellants. (pp. 3-6, TSN, June 15, 1983)

"Dr. Rodolfo Lizondra conducted the autopsy of the cadaver of the victims. He prepared a Necropsy Report on victim Tiu Heo Hu (Exhibits G, G-1, G-2) and similar report on victim Sy Sing Kiaw (Exhibits H, H-1 to H-3) [Decision, Jan. 30, 1987].[1]*

For the death of the two victims and the loss of some items, appellants were charge with the complex crime of "robbery with double homicide" under the following information:

"That on or about the 26th day of December 1981, in the municipality of Valenzuela, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused Rafael Olivarez, Jr. y Jaba and Danilo Arellano y Montinol, conspiring and confederating together and mutually helping each other, did then and there wilfully, unlawfully and feloniously, with intent of gain and by means of force, violence and intimidation upon the persons of Tiu Hu and Zie Sing Piu alias 'Sy Sing Kiaw' take, rob and carry away with them cash in the amount of P1,800.00 two (2) radio cassettes marked 'Sanyo', one (1) wrist watch marked 'Citron' and five (5) tape recorder cassettes, belonging to Tiu Hu to the damage and prejudice of the latter in the sum of more than P1,800.00; and that by reason or on the occasion (sic) of the said robbery and for the purpose of enabling them to take, rob and carry away the said amount of P1,800.00, two (2) radio cassettes, one (1) wrist watch and five (5) tape recorder cassettes the herein accused, in pursuance of their conspiracy, did then and there willfully, unlawfully and feloniously, with evidence (sic) premeditation and treachery and taking advantage of their superior strength, attack, assault and use personal violence on the said Tiu Hu and Zie Sing Piu alias 'Sy Sing Kiaw', thereby inflicting fatal physical injuries which directly caused the death of the said Tiu Hu and Zie Sing Piu alias 'Sy Sing Kiaw.'

"That in the commission of the said crime, other aggravating circumstances of nocturnity and unlawful entry were present."[2]

After trial, the lower court rendered a decision dated January 30, 1987 convicting appellants of the crime charged, sentenced them to suffer the death penalty and to indemnify the victims' heirs. The dispositive portion of the trial court's decision reads:

"In view of the foregoing circumstantial evidence and not mainly on the basis of the extrajudicial confession, the Court finds both accused guilty beyond reasonable doubt of the crime of Robbery with Double Homicide and sentences them to suffer the penalty imposed by law which is death on 2 counts, and to indemnify the heirs of the victim in the sum of P60,000.00 and to pay the costs.

"SO ORDERED."[3]

On direct appeal to this Court, appellants, who are imprisoned, seek their acquittal on the ground that their guilt was not proven by the prosecution beyond reasonable doubt. Alternatively, they argued that in case their conviction is sustained, the death penalty should not be imposed on them in the light of the 1987 Constitution.

In the course of the elevation of the records, the Court found that the transcript of stenographic notes (TSN) for the November 12, 1982[4] hearing was missing. When the whereabouts of the said TSN could not be traced despite the diligent efforts and after disciplinary measures were imposed on some court personnel, the counsels of both parties were ordered to submit their respective manifestation if said TSN may be dispensed with or a retaking of the testimony of the witness should instead be made.[5] The Office of the Solicitor General (OSG) agreed to dispense with the TSN.[6] Counsel for appellants (Atty. Escolastico R. Viola), who failed to comply with the order, was penalized with fine and later ordered arrested by this Court.[7] Thereafter, the Court appointed the Public Attorney's Office (PAO) to represent appellants.[8] The PAO made a similar manifestation as the OSG did with respect to the TSN.[9]

Upon a thorough review of the records of the case, appellants' conviction cannot stand for reasons which were not discussed or even mentioned by appellants' appointed counsel. The PAO, as the duly designated government agency to represent and render legal services to pauper litigants who cannot hire their own counsel, should have exerted more effort on this case. Its pleadings filed before this court could hardly be considered as the product of an advocate who has the responsibility to serve his client with competence and diligence.[10] The preparation of

his case is a duty the lawyer owes not only to his client whose property, money and above all life and liberty he is bound to protect. It is also a duty he owes to himself, to his own integrity and self-respect at the bar. Nonetheless, the Court is not powerless to address and consider unassigned issues and relevant facts and law that may affect the merits and justifiable disposition of the case.

Initially, the categorization by the prosecution of the crime of robbery with double homicide is erroneous because the word "homicide" in Article 294 of the Revised Penal Code (RPC) should be taken in its generic sense,[11] absorbing not only acts which results in death (such as murder) but also all other acts producing anything short of death (such as physical injuries committed during the robbery,[12] and regardless of the multiplicity of the victims which is only considered as an aggravating circumstance.[13] The indictable offense is still the complex crime of robbery with homicide (which is its proper nomenclature), the essential elements of which are:

- a.) the taking of personal property with the use of violence or intimidation against a person;
- b.) the property thus taken belongs to another;
- c.) the taking is characterized by intent to gain or *animus lucrandi*;
- d.) on the occasion of the robbery or by reason thereof, the crime of homicide which is therein used in a generic sense, was committed.[14]

In this case, there were no eyewitnesses to the killing and robbery and; thus, no direct evidence points to appellant's criminal liability. The prosecution's principal evidence against them is based solely on the testimony of the police officers who arrested, investigated and subsequently took their confession. Such evidence when juxtaposed with appellants' constitutional rights concerning arrests and the taking of confessions leads to a conclusion that they cannot be held liable for the offense charged despite the inherent weakness of their defenses of denial and alibi, not because they are not guilty but because the evidence adduced against them are inadmissible to sustain a criminal conviction.

First, appellants were arrested without a valid a valid warrant of arrest and their arrest cannot even be justified under any of the recognized exceptions for a valid warrantless arrest mentioned in Section 6, (now Section 5) Rule 113 of the Rules on Criminal Procedure, which prior to its amendment in 1988[15] provides:

"Arrest without warrant; when lawful. - A peace officer or private person may, without a warrant, arrest a person:

- (a) when the person to be arrested has committed, is actually committing, or is about to commit an offense in his presence;
- (b) when the offense has in fact been committed, and he has reasonable ground to believe that the person to be arrested has committed it;
- (c) when the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another."

None of the foregoing exceptions for a valid warrantless arrest concurs herein. At the time appellants were apprehended, two days had already lapsed after the discovery of the crime - they were not doing nor had just done any criminal act. Neither were they caught in *flagrante delicto* or had escaped from confinement. Probably aware of the illegality of the arrest they made, the arresting officers testified that appellants were merely invited to the police precinct. Such invitation, however, when construed in the light of the circumstances is actually in the nature of an arrest designed for the purpose of conducting an interrogation.[16] Mere invitation is covered by the

proscription on a warrantless arrest because it is intended for no other reason than to conduct an investigation. Thus, pursuant to Section 4(2), Article IV of the 1973 Constitution which was in effect at that time, "any evidence" obtained in violation of their right under Section 3, Article IV (pertaining to invalid warrantless arrest)[17] "shall be inadmissible for any purpose in any proceeding." [18] By virtue of said constitutional protection, any evidence obtained, including all the things and properties alleged to be stolen by appellants which were taken by the police from the place of the illegal arrest cannot be used as evidence for their conviction. In the same manner, all the products of those illegal arrests cannot be utilized to sustain any civil liability that they may have incurred by reason of their acts. This is the clear mandate of the Constitution when it provides that those illegally obtained evidence being "the fruits of the poisonous tree" are "inadmissible for any purpose in any proceeding". The foregoing constitutional protection on the inadmissibility of evidence (which are the product of an illegal search and arrest) known as the exclusionary rule, applies not only to criminal cases but even extends to civil, administrative and any other form of proceedings. No distinction is made by the Constitution; this Court ought not to distinguish.

Even assuming arguendo that by entering a plea without first questioning the legality of their arrest, appellants are deemed to have waived any objection concerning their arrest; [19] yet the extrajudicial confession of appellant Olivares, Jr. on which the prosecution relies, is likewise inadmissible in evidence. Under the Constitution, any person under investigation for the commission of an offense shall have the right among others, to have a counsel [20] which right can be validly waived. In this case, the said confession was obtained during custodial investigation but the confessant was not assisted by counsel. His manifestation to the investigating officer that he did not need the assistance of counsel does not constitute a valid waiver of his right within the contemplation of our criminal justice system. This notwithstanding the fact that the 1973 Constitution does not state that a waiver of the right to counsel to valid must be made with the assistance or in the presence of counsel. Although this requisite concerning the presence of counsel before a waiver of the right to counsel can be validly made is enshrined only in the 1987 Constitution, which further requires that the waiver must also be in writing, [21] yet jurisprudence is replete even during the time of appellants' arrest where it has been categorically ruled that a waiver of the constitutional right to counsel shall not be valid when the same is made without the presence or assistance of counsel. [22] Consequently, the invalid waiver of the right to counsel during custodial investigation makes the uncounselled confession, whether verbal or non-verbal [23] obtained in violation thereof as also "inadmissible in evidence" [24] under Section 20, Article IV of the 1973 Constitution [25] which provides:

"x x x. 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. (emphasis supplied).

Under the present laws, a confession to be admissible must be: [26]

- 1.) express and categorical; [27]
- 2.) given voluntarily, [28] and intelligently where the accused realized the legal significance of his act; [29]
- 3.) with assistance of competent and independent counsel; [30]
- 4.) in writing; and in the language known to and understood by the confessant; [31] and
- 5.) signed, or if the confessant does not know how to read and write, thumbmarked by him. [32]

In this case, the absence of the third requisite above makes the confession inadmissible. The purpose of providing counsel to a person under custodial investigation is to curb the uncivilized practice of extracting confession even

by the slightest coercion[33] as would lead the accused to admit something false.[34] What is sought to be avoided is the "evil of extorting from the very mouth of the person undergoing interrogation for the commission of an offense, the very evidence with which to prosecute and thereafter convict him." [35] These constitutional guarantees have been made available to protect him from the inherently coercive psychological, if not physical, atmosphere of such investigation.[36] In any case, said extrajudicial confession of one accused may not be utilized against a co-accused unless they are repeated in open court or when there is an opportunity to cross-examine the other on his extrajudicial statements. It is considered hearsay as against said accused under the rule on *res inter alios acta* rule, which ordains that the rights of a party cannot be prejudiced by an act, declaration, or omission of another.[37]

Aware of the abuses committed by some investigating and police agencies on a criminal suspect to get leading confessions, information and evidence just so they can claim to have speedily resolved a crime and fulfilled their duty, all at the expense of the basic human rights guaranteed by the Constitution, the Court cannot turn a blind eye by disregarding the constitutional rights accorded to every accused and tolerate official abuse. The presumption that a public officer had regularly performed his official duty,[38] which is only a matter of procedure, cannot prevail over the presumption of innocence stated in the highest law of the land - the Constitution. As a contract between and among the people, the provisions of the Constitution cannot just be taken lightly.

With the inadmissibility of the material circumstantial evidence which were premised on the likewise extrajudicial confession upon which both the prosecution and the lower court relied to sustain appellants' conviction, the remaining circumstances cannot produce a logical conclusion to establish their guilt. In order to sustain a conviction based on circumstantial evidence, it is necessary that the same satisfies the following elements:

1. there is more than one circumstance;
2. the fact from which the inferences are derived are proven; and
3. the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[39]

Simply put, for circumstantial evidence to be sufficient to support a conviction, all circumstances must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent and with every other rational hypothesis except that of guilt.[40]

The findings of the trial court, to wit:

"(B)oth accused are barriomates from Iloilo which means that there is a common factor for them to come together and act on a plan hatched by them during a drinking spree. It would not be remote for Melchor Sali who was questioned by the police and on whose statements the police made a start to investigate, would be a part of the plan to rob two or three weeks before the incident, because he is also a barriomate of the two accused. The truth of the testimony of Narciso Gador that both accused were seen by him on Christmas night at Delia's restaurant between 9:00 and 10:00 o'clock at night which is corroborated in the statement of Rafael Olivarez, Jr. is not remote and is more credible that the defense (sic) alibi of the Olivarez brothers that they were together sleeping in an employer's house. Another matter to consider was the failure of Danilo Arellano to report for work after the killing that was from December 26, 1981 until he was arrested. His having left his place of employment and residence without explanation is an evidence of flee from the scene of the crime. Flee without anyone pursuing is an indication of guilt. Another circumstantial evidence showing that the crime was perpetrated by both accused was the recovery of the radio cassettes, tapes and wrist watch by Cpl. Juan Tomas who testified that the place were recovered was pointed to by Danilo Arellano (TSN Nov. 17, 1982, p. 4). These stolen articles having been recently stolen and their whereabouts being known to Danilo Arellano raises the presumption that he was the one who took the same with intent to gain from their rightful owner." [41]

cannot entirely be considered because some of the circumstantial evidence relied upon by the trial court were, at the risk of being repetitive, based on the inadmissible extrajudicial confession. The facts which became known only by virtue of the extrajudicial confession pertains to how the victims were killed, how appellants gained entrance into the premises, and how the alleged stolen properties were found in the house where one of them was arrested. Without the foregoing facts, a combination of the remainder of the circumstantial evidence cannot sustain a conviction beyond the shadow of reasonable doubt; hence, the absence of the third requisite. Forthwith, the prosecution failed to discharge its burden of proof and consequently to rebut with the required quantum of evidence[42] the presumption of innocence[43] fundamentally enjoyed by both appellants. For it is a basic evidentiary rule in criminal law that the prosecution has the onus probandi of establishing the guilt of the accused. *Ei incumbit probatio non qui negat*. He who asserts - not he who denies - must prove. Likewise, it is settled that conviction must rest not on the weakness of the defense but on the strength of the prosecution.[44] Accordingly, circumstantial evidence which has not been adequately established cannot, by itself, be the basis of conviction.[45]

WHEREFORE, appellants' conviction is herein REVERSED and both are ACQUITTED for the crime charged. The person detaining them is ordered to IMMEDIATELY RELEASE appellants UNLESS they are held for some other lawful cause.

SO ORDERED.

Melo (Acting Chairman), Puno, and Mendoza, JJ., concur.

[1] Rollo, pp. 234-242.

[*] Sic is no longer indicated so as not to clutter the above narration, the other quoted portions of the trial court's decision and the information.

[2] Rollo, pp. 232-233.

[3] Regional Trial Court (RTC) Decision dated January 30, 1987 penned by Judge Teresita Dizon-Capulong, pp. 9-10; Rollo, pp. 63-64, 202- 211.

[4] In some Court resolutions, the year was written as 1992.

[5] Supreme Court Minute Resolution dated November 24, 1993; Rollo, p. 114.

[6] Manifestation dated May 13, 1994; Rollo, p. 137-138.

[7] Supreme Court Minute Resolution dated July 12, 1995, Rollo, pp. 155-157

[8] Supreme Court Minute Resolution dated September 18, 1995; Rollo, p. 164

[9] Manifestation of Public Attorney's Office dated November 15, 1995; Rollo, pp. 165-166.

[10] Canon 18, Code of Professional Responsibility.

[11] *People v. Sequiño*, 264 SCRA 79; *People v. Camat*, 326 Phil. 56.

[12] *People v. Feliciano*, 256 SCRA 706; *People v. Feliciano*, 326 Phil. 719.

[13] *People v. Bracamonte*, 257 SCRA 380; *People v. Salvatiera*, 257 SCRA 489.

[14] *People v. Mendoza*, G.R. No. 115809, January 23, 1998; *People v. Baccay*, G.R. No. 120366, January 16,

1998; *People v. Gavina*, 264 SCRA 450.

[15] The amended 1988 Rules provides: "Arrest without warrant; when lawful. - A peace officer or a private person may, without a warrant, arrest a person:

(a) when, in his presence, the person to be arrested has committed, is actually committing, or is about to commit an offense;

(b) when the offense has in fact been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and

(c) when the person to be arrested is a prisoner who has escaped from a penal establishment or a place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) hereof, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail, and he shall be proceeded against in accordance with Rule 112, Section 7."

[16] Under Republic Act (R.A.) No. 7438 (AN ACT DEFINING CERTAIN RIGHTS OF PERSON ARRESTED, DETAINED OR UNDER CUSTODIAL INVESTIGATION AS WELL AS THE DUTIES OF THE ARRESTING, DETAINING, AND INVESTIGATING OFFICERS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF) which took effect only on July 7, 1992 "custodial investigation" includes the practice of issuing an "invitation" to a person who is investigated in connection with an offense he is suspected to have committed.

[17] "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall not be violated, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined by the judge, or such other responsible officer as may be authorized by law, after examination under oath or affirmation of the complainant and the witness he may produce, and particularly describing the place to be searched, and the persons or things to be seized."

[18] Section 4 (2), Article IV, 1973 Constitution provides: "Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding."

[19] *Padilla v. Court of Appeals and People of the Philippines*, 269 SCRA 402 (1997).

[20] Part of the so-called "Miranda rights" enunciated by the American Supreme Court in *Miranda v. Arizona*, 384 US 436, 16 L ed 694, 10 A.L.R. 3d, 1974.

[21] Section 20, Article IV, 1973 Constitution now Section 12 (1), Article III, 1987 Constitution.

[22] *People v. Dacoycoy*, 208 SCRA 583 and *People v. Pecardal*, 145 SCRA 647 cited in *People v. Bonola*, 274 SCRA 238; *People v. Rojas*, 147 SCRA 169; *People v. Galit*, 135 SCRA 465.

[23] *People v. Bonola*, 274 SCRA 238.

[24] *People v. Parel*, 330 Phil. 453.

[25] *People v. Dicierto*, 149 SCRA 496; *Soliman v. Sandiganbayan*, 145 SCRA 640; *People v. Ribadajo*, 143 SCRA 637; *People v. Poyos*, 143 SCRA 542; *People v. Sison*, 142 SCRA 218; *People v. Morales*, 121 SCRA 538; *People v. Robles*, 104 SCRA 450; *People v. Jimenez*, 71 SCRA 184.

- [26] *People v. Jerez*, G.R. No. 114385, January 29, 1998; *People v. Cabiles*, 284 SCRA 199.
- [27] Section 33, Rule 130, Rules on Evidence, *U.S. v. Corrales*, 28 Phil. 362; *U.S. v. Lio Team*, 23 Phil. 64.
- [28] Section 12(1), Article III, 1987 Constitution; *People v. Nishishima*, 57 Phil. 26.
- [29] *Bilaan v. Cusi*, 5 SCRA 451, 115 Phil. 449; *U.S. v. Agatea*, 40 Phil. 596.
- [30] Section 12 (1), Article III, 1987 Constitution.
- [31] Section 2(b), R.A. No. 7438.
- [32] *Ibid.*
- [33] *People v. Paule*, 330 Phil. 373.
- [34] *People v. Andal*, 279 SCRA 474; *People v. Layuso*, 175 SCRA 47.
- [35] *People v. Bonola*, *supra*.
- [36] *Miranda v. Arizona*, *supra*.
- [37] *People v. Raquel*, 33 Phil. 72.
- [38] Section 5(m), Rule 131, now Section 3(m), Rule 131, of the Revised Rules on Evidence.
- [39] Section 4, Rule 133, Revised Rules on Evidence; *People v. Berroya, et al.* 283 SCRA 111 (1997); *People v. Doro*, 282 SCRA 1 (1997); *People v. Bonola*, 274 SCRA 238; *People v. Grefaldia*, 273 SCRA 591.
- [40] *People v. De Guia*, 280 SCRA 141 (1997).
- [41] *Rollo*, p. 60; *RTC Decision*, p. 6.
- [42] Sec. 2, Rule 131, in relation to Sec. 2, Rule 133, Rules of Evidence before the 1989 amendments.
- [43] Section 19, Article IV, 1973 Constitution (now Section 14(2), Article III, 1987 Constitution); *People v. Villaviray*, 330 Phil. 541.
- [44] *People v. Balderas*, 276 SCRA 470; *People v. Raquel*, *supra*.
- [45] *People v. Ilaoa*, 233 SCRA 231.

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