

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SALVADOR LACAP ALIAS "BADOR," WILLIAM ISIP ALIAS "TURO," ANGELITO YABUT ALIAS "ITUK," EDUARDO YABUT ALIAS "EDDIE," AND REYNALD...

G.R. No. 78730. March 08, 1989

Ponente: PADILLA, J.

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PADILLA, J.:

In the early morning of 22 January 1986, two (2) elderly sisters named Filomena and Eduviges Mallari were found dead in their house located in sitio Tagis, Bulacus, Masantol.

Pampanga.[1] An autopsy of the cadavers showed that Filomena Mallari sustained seven (7) stab wounds while Eduviges Mallari sustained thirteen (13) stab wounds, in various parts of their bodies. The cause of death in both instances was: "Cardio Pulmonary Arrest, due to Massive Hemorrhage, due to stab wounds." [2]

Initial investigations revealed that the victims were robbed of P35.00, in cash, and a pair of antique earrings valued at P1,000.00,[3] and that Salvador Lacap, William Isip, Angelito Yabut, Eduardo Yabut, and Reynaldo Ignacio were the perpetrators of the heinous crime.[4] Consequently, an alarm was sent out for their arrest and apprehension.

Upon his arrest, Reynaldo Ignacio readily admitted that he and his aforementioned companions killed the deceased victims in the manner described by him in his extra-judicial confession, and he pointed to Salvador Lacap as the mastermind.[5]

When arrested, Angelito Yabut also executed an extra-judicial statement, in the presence of his mother and aunt, admitting his presence at the scene of the crime when it was committed. He claimed, however, that he stayed at the back of the house and that he was forced by Salvador Lacap to accompany them to the house of the victims.[6]

Thereupon, Salvador Lacap alias "Bador," William Isip alias "Turo," Angelito Yabut alias "Ituk," Eduardo Yabut alias "Eddie," and Reynaldo Ignacio alias "Pakang" were charged with the crime of Robbery with Double Homicide before the Regional Trial Court of Macabebe, Pampanga, docketed therein as Criminal Case No. 86-0273(M), committed as follows:

"That on or about the 22[nd] day of January, 1986, in the municipality of Masantol, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused SALVADOR LACAP alias 'BADOR,' WILLIAM ISIP alias 'TURO,' ANGELITO YABUT alias 'ITUK,' EDUARDO YABUT alias 'EDDIE' and REYNALDO IGNACIO alias 'PAKANG,' conspiring, confederating and mutually helping one another, with grave abuse of confidence, nighttime purposely sought to facilitate the commission of the offense, with intent of gain and without the knowledge and consent of the owner and by the use of force upon things, did then and there wilfully, unlawfully and feloniously enter the dwelling house by opening the

door thereof and once inside, did then and there take, rob, steal and carry away with them cash money amounting to THIRTY FIVE (P35.00) PESOS, Philippine Currency, in different denominations, and two (2) pair of earrings valued at P1,000.00, and on the occasion of the said robbery, and for the purpose of enabling them to take, steal, rob and carry away the said cash and pair of earrings, herein accused in pursuance of their conspiracy, did then and there wilfully, unlawfully and feloniously, with evident premeditation, taking advantage of their superior number and strength, with disregard of sex and age, and with deliberate intent to kill, armed with a deadly weapon treacherously attack, assault and stab Filomena Lacap Mallari and Eduviges Lacap Mallari, inflicting upon them serious and fatal injuries which directly caused their death"[7]

When arraigned, the accused Salvador Lacap, William Isip, Angelito Yabut, and Eduardo Yabut entered pleas of "Not Guilty"[8] while the accused Reynaldo Ignacio pleaded guilty to the charge.[9] The trial court, however, did not immediately pronounce judgment upon said Reynaldo Ignacio. Instead, the trial court ordered said accused to take the witness stand and the Court asked him about his educational attainment and whether or not he understood the implications of his plea of guilty. Reynaldo Ignacio answered that he understood the implications of his plea and insisted on the same. The trial court, nevertheless, suspended the pronouncement of sentence until after the prosecution shall have introduced evidence to determine the nature of his participation and liability in the commission of the crime charged.[10]

However, in the trial that thereafter ensued, Reynaldo Ignacio testified that he, alone, was responsible for the deaths of Filomena and Eduviges Mallari, and that the other accused did not participate therein. He declared that in the evening of 21 January 1986, he drank liquor with his co-accused Salvador Lacap, Eduardo Yabut, Angelito Yabut, and William Isip in the store of Bartolome Bautista in the "centro" of Sta. Cruz, Masantol, Pampanga. After drinking for some time, he left his companions and went to Tagis, Bulacus, Masantol, Pampanga, in order to rob the house of the victims as he was informed that gambling sessions are oftentimes held therein and he expected to find money there. According to him, he climbed the house through the cupboard ("paminggalan") and entered the house by removing the big nail that bolted the door. Once inside, he searched for money in the "aparador."

While he was going over the contents of the "aparador," its door creaked and the woman lying near it woke up and shouted: "robber, robber." He became frightened and stabbed her. In the process, the other woman woke up, so that he stabbed her also. Then he scampered away and went back to Sta. Cruz. At daybreak, he proceeded to Manila. From there, he went to Alabang, and thence to Valenzuela and Malinta. Not knowing where else to go, he returned to Minalin, Pampanga where he was arrested and then brought to Masantol. He admitted having executed an extra-judicial confession before police investigators.[11]

The other accused, upon the other hand, claimed that from

the place where they were having a drinking spree, they proceeded to their respective homes and went into a drunken sleep until the following morning.

The trial court did not give credence to the claims of the accused and found all of them guilty, as charged. The dispositive part of the judgment reads, as follows;

"WHEREFORE, premises considered, the Court finds accused SALVADOR LACAP alias 'BADOR,' WILLIAM ISIP alias 'TURO,' ANGELITO YABUT alias 'ITUK,' EDUARDO YABUT alias 'EDDIE' and REYNALDO IGNACIO alias 'PAKANG' guilty beyond reasonable doubt of the crime of robbery with homicide as charged in the Information and hereby sentences said accused of [sic] the penalty of reclusion perpetua, together with all the accessories provided by law.

"The Court further sentences them jointly and severally to indemnify the heirs of Filomena Mallari and Eduviges Mallari the sum of THIRTY THOUSAND (P30,000.00) PESOS, Philippine currency, each for the

death of said victims Filomena Mallari and Eduviges Mallari; the further sum of FORTY THREE THOUSAND TWO HUNDRED SIXTEEN (P43,216.00) PESOS, Philippine currency, for actual damages incurred for the burial and other expenses of the deceased in accordance with customs and traditions and the further sum of THIRTY THOUSAND (P30,000.00) PESOS, Philippine currency, for moral damages and for attorney's fees.

"The Court further sentences all the accused jointly and severally to pay the costs of this suit." [12]

From this judgment, only Salvador Lacap, William Isip, Angelito Yabut, and Eduardo Yabut appealed. They contend that the testimony of Abelardo Mallari, which was relied upon by the trial court in convicting them, is not credible.

Abelardo Mallari, nephew of the victims, testified that while he was passing by the house of the victims at about 1:00 o'clock in the morning of 22 January 1986, on his way to Sitio Mamalichu, Sta. Cruz, Masantol, Pampanga, in order to open the gates of the irrigation canal to his landholding, he saw three (3) men, whom he identified to be Salvador Lacap, Reynaldo Ignacio, and William Isip, coming down from the "cupboard" (paminggalan) of the house of the victims. Salvador Lacap was carrying a bundle of clothes on his shoulders. He (Mallari) also declared that he saw two (2) men, whom he identified to be Eduardo Yabut and Angelito Yabut, standing guard below, one at the front and the other at the rear of the house. He was frightened and hid near a creek. After the men had gone, passing in front of his hiding place, he reported what he saw to the barangay captain, Narciso Flores. But, Flores was apprehensive as the men Mallari had seen might be "taong luwal" or "taong labas" or "NPAs." So, they agreed to meet at sun-up. Abelardo Mallari then went home, taking another route through the rice paddies.

Upon reaching his house, however, he (Mallari) was met by three (3) masked men who threatened to kill him if he should testify in the case. He was very much frightened and promised not to testify. At 7:00 o'clock in the morning, he left his house to keep his appointment with the barangay captain. On his way, he passed by the house of the victims and found them dead. When he met the barangay captain, he told the latter of the death of the victims and they proceeded to the Municipal Building of Masantol, Pampanga to report the matter. [13]

The appellants contend that if Abelardo Mallari had indeed recognized them to be the persons he saw coming down from or at the house of the victims, Mallari would have immediately told the barangay captain of the identity of the persons he saw near the house of the victims and the barangay captain would not have said that the persons Mallari saw might be "taong luwal" or "taong labas" or "NPAs." The entry in the police blotter would have also stated that the victims were killed by the accused instead of "still unidentified culprits." [14]

Indeed, Abelardo Mallari merely told the barangay captain, Narciso Flores, that he saw "suspicious" persons in the house of the victims. [15] But, this failure of the witness to name the perpetrators immediately is understandable. The witness declared that he was very much frightened, and the naming of the accused as the perpetrators of the crime was made at the risk of his life, [16] because the accused might be "taong luwal" or "taong labas" or "NPAs."

Appellants also contend that the extra-judicial confession of the accused-appellant Angelito Yabut should be disregarded for having been obtained in violation of the constitutional rights of said accused.

We agree. The prevailing exclusionary rule on extra-judicial confessions obtained during custodial interrogation is still that laid down in *People vs. Galit* [17] as follows:

"10. This Court, in the case of *Morales vs. Ponce Enrile* (G.R. Nos. 61016 and 61107, April 26, 1983, 121 SCRA 538) laid down the correct procedure for peace officers to follow when making an arrest and in conducting a custodial investigation, and which We reiterate:

‘7. At the time a person is arrested, it shall be the duty of the arresting officer to inform him of the reason for the arrest and he must be shown the warrant of arrest, if any. He shall be informed of his constitutional rights to remain silent and to counsel, and that any statement he might make could be used against him. The person arrested shall have the right to communicate with his lawyer, a relative, or anyone he chooses by the most expedient means — by telephone if possible — or by letter or messenger. It shall be the responsibility of the arresting officer to see to it that this is accomplished. "No custodial investigation shall be conducted unless it be in the presence of counsel engaged by the person arrested, or by any person on his behalf, or appointed by the court upon petition either of the detainee himself or by anyone on his behalf. The right to counsel may be waived but the waiver shall not be valid unless made with the assistance of counsel. Any statement obtained in violation of the procedure herein laid down, whether exculpatory or inculpatory, in whole or in part, shall be inadmissible in evidence."

Police Sgt. Daniel Sunga of the Masantol, Pampanga INP, who conducted the investigation of the case, testified to the circumstances attending the execution of the extra-judicial statement of Angelito Yabut (Exhibit K), as follows:

"Q

You made mention likewise during the last hearing, Mr. Witness, that you apprised the accused Reynaldo Ignacio and Angelito Yabut of their constitutional rights at the time that you took their statements and one of those rights, is that you apprised them that you will provide them with counsel if they don't have counsel, is it not?

A

Yes, sir, but with regards to Angelito Yabut he gave his statement voluntarily after the preliminary investigation, if I am not mistaken, and he told me that he wanted to tell the truth so that the police department and the judge may know his participation and according to him he is willing to be a witness of the government that is why he gave a voluntary statement and during that time I don't want to take advantage but he was accompanied by his mother and his aunt crying for me to take down his statement and as a matter of fact I called another witness so that they may determine that I am not taking advantage on the part of Angelito Yabut and I was instructed by my station commander to take down his statement, sir.

X X X

X X X

X X X

Q

Now, it appears now in this Sinumpaang Salaysay that the accused Angelito Yabut was not assisted by counsel, is it not?

A Yes. sir, because his mother and his aunt were crying to me to take down the statement of Angelito Yabut, sir.

Q So, it is clear now that you did not provide Angelito Yabut with a counsel?

A Because I was instructed by my Station Commander, when he heard the relatives of Angelito Yabut, to take down his statement, he was even present at the time of the taking of the statement of Angelito Yabut."[18]

Since the execution of the extra-judicial confession of Angelito Yabut (Exhibit K) was, admittedly, made in the absence of counsel, de parte or de oficio, and the waiver of counsel was not made with the assistance of counsel, as required, said extra-judicial confession should be disregarded.

But even with the extra-judicial confession of Angelito Yabut completely disregarded, there is still more than enough evidence to sustain the judgment of conviction.

The claim of the appellants that Reynaldo Ignacio alone committed the crime complained of and their alibi that they were somewhere else at the time the crime was committed cannot prevail over the positive testimony of Abelardo Mallari that he saw the accused-appellants in the house of the victims in the early morning of 22 January 1986. Besides, it would appear that the house of the victims was accessible and not far from Barangay Centro where the appellants were drinking earlier and there is no convincing proof that it was impossible for them to be at the scene of the crime at the time it was committed.

Moreover, the physical facts of the case negate such claim. The number of wounds sustained by the victims belie the claim that only one person stabbed the victims. We reproduce hereunder the following observations of the trial court to the effect that more than one person committed the crime:

"x x x The evidence established in this case, however, would not allow accused Reynaldo Ignacio to exculpate his other co-accused from the consequences of the crime they have committed.

"While accused Reynaldo Ignacio admitted stabbing the first victim twice and the second victim only once, the post mortem examination of the cadavers of the victims by Dr. Ernesto Kasintahan, Jr., Municipal Health Officer of Masantol, Pampanga shows that both victims suffered multiple stab wounds, lacerations, contusions, etc. on the different parts of the body apparently as a result of their instinctive resistance to their attackers. (Exhibits 'L' to 'L-2' for Eduviges Mallari; Exhibits 'M' to 'M-2' for Filomena Mallari). These findings of Dr. Ernesto Kasintahan, Jr. nullify and negate the testimony of accused Reynaldo Ignacio that he was alone in perpetrating this crime and that he was the only one who stabbed and killed the victims. These findings, to the mind of the Court, adequately prove that more than one person participated in the killing of the two victims, and are consistent with, and compatible to, [sic] the findings of guilt of all the accused as earlier pointed to by the Court."[19]

It follows that the trial court did not commit any error in finding the accused-appellants guilty of the crime for which they were charged.

WHEREFORE, the judgment appealed from is hereby **AFFIRMED**, with costs against the appellants.

SO ORDERED.

Melencio-Herrera (Chairman), Paras, Sarmiento, and Regalado, JJ., concur.

[1] tsn of April 2, 1986. p. 24: tsn of April 16, 1986. p. 33.

[2] Exhibits L. and M: See also tsn of March 14, 1986. pp. 58-65: tsn of March 24, 1986. pp. 5-7.

- [3] tsn of April 7, 1986. p. 7.
- [4] Exhibit H.
- [5] Exhibit I.
- [6] Exhibit K.
- [7] Original Record, p. 2.
- [8] Id., p. 12.
- [9] Id., p. 11.
- [10] Id., p. 13.
- [11] tsn of May 5, 1986. pp. 7-9. 14-15. 20-26. 34. 50-51: See also Exhibit I.
- [12] Original Record, p. 143.
- [13] tsn of April 2, 1986, pp 7-17, 20-25.
- [14] See Exhibit 1-A.
- [15] tsn of April 2, 1986, p. 20; tsn of March 31, 1986. p.6.
- [16] Id., pp. 23. 27.
- [17] G.R. No. 51770. March 20. 1985, 135 SCRA 465.
- [18] tsn of March 14, 1986. pp. 46-48.
- [19] Decision, p. 38. Original Record, p. 138.

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