

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODOLFO DE LA CRUZ, ALIAS RODOLFO DOMINGO OR “OMPONG,” ACCUSED-APPELLANT.

G.R. Nos. 118866-68. September 17, 1997

Ponente: REGALADO, J.

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REGALADO, J.:

In this appeal from three sentences of reclusion perpetua, accused-appellant Rodolfo de la Cruz, alias Rodolfo Domingo or “Ompong,” consistent with his negative pleas when arraigned on November 5, 1992 and January 11, 1993,[1] impugns his conviction for multiple murder in Criminal Cases Nos. 92-8029, 92-8030 and 92-8031 by the Regional Trial Court, Branch 74,[2] of Antipolo, Rizal. He anchors his entreaty for the reversal thereof mainly on the ground that he was not fully and appropriately apprised of or allowed to exercise his constitutional rights prior to and while undergoing custodial investigation.

In the early evening of June 23, 1992, the lifeless bodies of Teodorico M. Laroya, Jr. and his children, 12-year old Karen Verona D. Laroya and 10-year old John Lester D. Laroya, were discovered in their residence at 13 Emerald Street, Greenpark Village, Cainta, Rizal by their horrified neighbors. The star-crossed trio were all bloodied consequent to numerous stab wounds, and each of them had a knife still embedded in and protruding from their bodies when found. Karen Verona also bore external signs of sexual assault.[3]

None of their neighbors, however, witnessed the gruesome murders. Two of them later testified in court, namely, Harold Jim F. Balocating and Anita F. Pangan. The former merely recounted how, while playing table tennis in front of the Laroya residence, he and his friends stumbled upon the dead bodies of the victims. Anita Pangan, on the other hand, recalled that at around 9:00 P.M. of June 23, 1992, appellant, who was a brother-in-law of Teodorico Laroya, Jr., purchased some candies at her store which is located inside the village.[4]

Both Balocating and Pangan had previously executed sworn statements just three days after the incident, the assertions in which were of the same import as their respective testimonies in court.[5] On June 27, 1992, the police authorities apprehended appellant at the house of his brother in Fort Bonifacio. SPO1 Carlos R. Atanacio, Jr., a member of the Cainta Police Station in Cainta, Rizal interrogated appellant regarding the crimes on the same day that he was arrested.

This police officer declared in the trial court that before he questioned appellant as to his participation in said crimes, all steps were undertaken to completely inform the latter of his rights and this he did in the presence of appellant’s supposed counsel, one Atty. Lorenza Bernardino-Villanueva. Appellant then signed, likewise in the presence of said counsel, an extrajudicial confession wherein he narrated in detail how he allegedly snuffed out the lives of the victims.[6]

When presented as the lone witness for himself, appellant was observed by the trial court to be afflicted with a problem in expressing himself and an impediment in his speech (ngongong). By appellant’s own account, he only reached the fourth grade of elementary schooling and, although conversant with Tagalog, he is unable to read and

write, although he can sign his name. He bluntly repudiated the version of SPO1 Atanacio, Jr. and insisted that he was never assisted by any counsel of his choice, much less met said Atty. Lorenza Bernardino-Villanueva, when he was interrogated at the police headquarters in Cainta, Rizal and signed his supposed extrajudicial confession. Parenthetically, his answers to the questions appearing therein are in surprisingly fluent, flawless and expressive Tagalog,[7] which could not have been done by him because of his defect in speech and articulation.

He further claims that he was instead tortured by the police authorities into signing the same, and not that he did so voluntarily. While he admits having been at the residence of the victims on the night that they were murdered, he flatly denied having killed them as he left the trio well and alive that same night when he proceeded to his brother's place in Fort Bonifacio.[8]

1. In unambiguous and explicit terms, Section 12, paragraph 1, of Article III of the Constitution requires that "[a]ny person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel." Corollary thereto, paragraph 3 thereof declares that any confession or admission obtained in violation of the same shall be inadmissible in evidence against the confessant.

An accused person must be informed of the rights set out in said paragraph of Section 12 upon being held as a suspect and made to undergo custodial investigation by the police authorities.[9] As explained by this Court in *People vs. Marra*,[10] custodial investigation involves any questioning initiated by law enforcement authorities after a person is taken into custody or otherwise deprived of his freedom of action in any significant manner. And, the rule begins to operate at once as soon as the investigation ceases to be a general inquiry into an unsolved crime and direction is then aimed upon a particular suspect who has been taken into custody and to whom the police would then direct interrogatory question which tend to elicit incriminating statements.

Furthermore, not only does the fundamental law impose, as a requisite function of the investigating officer, the duty to explain those rights to the accused but also that there must correspondingly be a meaningful communication to and understanding thereof by the accused. A mere perfunctory reading by the constable of such rights to the accused would thus not suffice.

The defendant in the dock must be made to understand comprehensively, in the language or dialect that he knows, the full extent of the same. A confession made in an atmosphere characterized by deficiencies in informing the accused of all the rights to which he is entitled would be rendered valueless and inadmissible, perforated, as it is by non-compliance with the procedural and substantive safeguards to which an accused is entitled under the Bill of Rights and as now further implemented and ramified by statutory law.[11]

2. In the present case, SPO1 Atanacio, Jr., admitted in his testimony before the lower court that the investigation of appellant in connection with the murders actually commenced at around 9:00 A.M. on June 27, 1992 at the police headquarters in Cainta, Rizal, at the time when appellant was still without counsel.[12] The sworn statement containing appellant's extrajudicial confession itself shows that it was taken at around 11:00 A.M.[13] Further, while SPO1 Atanacio, Jr. informed appellant in Tagalog of his right to remain silent, that any statement he made could be used for or against him in any court, and that he could have counsel preferably of his own choice, he nonetheless failed to tell appellant that if the latter could not afford the services of counsel, he could be provided with one.[14]

The foregoing lapses on the part of the police authorities are all fatal to the admissibility of the extrajudicial confession supposedly executed by appellant before SPO1 Atanacio, Jr. Jurisprudence along these lines have all been too consistent - an accused under custodial interrogation must continuously have a counsel assisting him

from the very start thereof. Indeed, Section 12, Article III of the Constitution, could not be any clearer.

To reiterate, prior to the commencement of the investigation, the accused must perforce be informed, on top of all his other rights enumerated therein, that where he lacks a counsel of his choice because of indigence or other incapacitating cause, he shall be provided with one. Without this further safeguard, the cautionary right to counsel would merely impress upon the accused, more so upon an impecunious person like appellant who is hardly educated, that his right thereto would mean simply that he can consult a lawyer if he has one or has the financial capacity to obtain legal services, and nothing more.

Curiously, the record is completely bereft of any indication as to how appellant was able to engage the services of Atty. Lorenza Bernardino-Villanueva, the counsel who was allegedly present when appellant executed his confession and who was not even subpoenaed to testify thereon. This significant circumstance lends credence to the latter's denial that he ever met in person, much less executed the confession in the presence of, said counsel. What emerges from a perusal of the record is that this counsel was merely picked out and provided by the law enforcers themselves, thus putting into serious doubt her independence and competence in assisting appellant during the investigation[15] as to affect its admissibility.

Moreover, had she been equal to her responsibility in the face of such serious charge involved in the cases, the failure of SPO1 Atanacio, Jr. to fully apprise appellant of all his rights, particularly the requirement that if he could not afford the services of a lawyer he shall be provided with one would have been rectified by said counsel at that very stage of the investigation. Indeed, from our earliest jurisprudence, the law vouchsafes to the accused the right to an effective counsel, one who can be made to act in protection of his rights,[16] and not by merely going through the motions of providing him with anyone who possesses a law degree.

Again, about the only matter that bears out the presence of such counsel at that stage of custodial interrogation are the signatures which she affixed on the affidavit. Withal, a cursory reading of the confession itself and SPO1 Atanacio's version of the manner in which he conducted the interrogation, yields no evidence or indication pointing to her having explained to the appellant his rights under the Constitution.

In *People vs. Ayson, etc., et al.*,[17] this Court aptly emphasized these constitutional safeguards in this wise:

In *Miranda*, Chief Justice Warren summarized the procedural safeguards laid down for a person in police custody, "in-custody interrogation" being regarded as the commencement of an adversary proceeding against the suspect.

He must be warned prior to any questioning that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires. Opportunity to exercise those rights must be afforded to him throughout the interrogation. After such warnings have been given, such opportunity afforded him, the individual may knowingly and intelligently waive these rights and agree to answer or make a statement. But unless and until such warnings and waivers are demonstrated by the prosecution at the trial, no evidence obtained as a result of interrogation can be used against him.

The objective is to prohibit "incommunicado" interrogation of individuals in a police-dominated atmosphere, resulting in self-incriminating statements without full warnings of constitutional rights.

The rights above specified, to repeat, exist only in "custodial interrogations," or "in-custody interrogation of accused persons." And, as this Court has already stated, by custodial interrogation is meant "questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way." The situation contemplated has also been more precisely described by this Court.

x x x After a person is arrested and his custodial investigation begins, a confrontation arises which at best may be termed unequal. The detainee is brought to an army camp or police headquarters and there questioned and “cross-examined” not only by one but as many investigators as may be necessary to break down his morale. He finds himself in strange and unfamiliar surroundings, and every person he meets, he considers hostile to him. The investigators are well-trained and seasoned in their work. They employ all the methods and means that experience and study have taught them to extract the truth, or what may pass for it, out of the detainee. Most detainees are unlettered and are not aware of their constitutional rights. And even if they were, the intimidating and coercive presence of the officers of the law in such an atmosphere overwhelms them into silence. Section 20 of the Bill of Rights seeks to remedy this imbalance.

3. Necessarily, even while there is evidence of the corpus delicti in this case, appellant’s conviction must be set aside for his extrajudicial confession is obviously inadmissible in evidence against him. The rule is that an extrajudicial confession, where admissible, must be corroborated by evidence of the corpus delicti in order to sustain a finding of guilt.[18] Both must co-exist. The insistence of the Office of the Solicitor General that appellant’s confession could nonetheless be treated as an “admission” which could therefore be admitted in evidence is misplaced, for the Bill of Rights treats of both “confessions” and “admissions” in the same light.[19] In addition, it should be stressed that in appellant’s case, no eyewitnesses to the actual killings were ever presented to testify in court, and the prosecution relied primarily on circumstantial evidence to inculcate appellant in crimes wherein he was meted three penalties of reclusion perpetua.

It is significant that, with the exception of appellant’s putative extrajudicial confession, no other evidence of his alleged guilt has been presented by the People. The proposition that the medical findings jibe with the narration of appellant as to how he allegedly committed the crimes falls into the fatal error of figuratively putting the horse before the cart. Precisely, the validity and admissibility of the supposed extrajudicial confession are in question and the contents thereof are denied and of serious dubiety, hence the same cannot be used as the basis for such a finding. Otherwise, it would assume that which has still to be proved, a situation of *petitio principii* or *circulo en probando*.

Evidently, herein appellant cannot be made to suffer the extreme penal consequences of the crimes on account of the shaky and decrepit circumstantial evidence proffered by the prosecution. While the defense of alibi advanced by appellant is by nature a weak one by itself, it assumes commensurate significance and strength where the evidence for the prosecution itself is frail and effete. For, needless to state, the prosecution must not rely on the weakness of the evidence of the defense but upon the vigor of its own.[20] In sum, the presumption of innocence enjoyed by appellant has remained intact and impervious to the prosecution’s assault thereon.

ACCORDINGLY, on the foregoing premises, the judgments of the Regional Trial Court, Branch 74, of Antipolo, Rizal in Criminal Cases Nos. 92-8029, 92-8030 and 92-8031 are REVERSED and SET ASIDE and accused-appellant Rodolfo de la Cruz, alias Rodolfo Domingo or “Ompong,” is hereby ACQUITTED. His immediate release is accordingly ordered unless there be any other lawful cause for his continued incarceration. SO ORDERED.

Puno, and Torres, Jr., JJ., concur.

Mendoza, J., on official leave.

[1] Rollo, 21.

[2] Hon. Francisco A. Querubin was the Presiding Judge. In its joint decision dated November 14, 1994, the trial court sentenced appellant to suffer three penalties of reclusion perpetua, the crime having been committed before the effectivity of R.A. No. 7659, and to pay damages.

[3] Original Record, 83-92; Exhibits N, O, P, Q, S, T, T-1, V, V-1, and W.

[4] TSN, May 3, 1991, 2-5; May 11, 1993, 2-6.

[5] Original Record, 27-28.

[6] TSN, May 29, 1993, 2-8; June 7, 1993, 2-8.

[7] Exhibit "E," as quoted in the Brief for the Appellee, 8-13; Rollo, 99-104.

[8] TSN, August 23, 1993, 2-8; September 6, 1993, 2-6.

[9] *People vs. Compil*, G.R. No. 95028, May 15, 1995, 244 SCRA 135; *People vs. Logronio*, G.R. No. 92416, October 13, 1992, 214 SCRA 519; *People vs. Dimaano, et al.*, G.R. No. 95231, June 15, 1992, 209 SCRA 819; *Gamboa vs. Cruz*, G.R. No. 52691, June 27, 1988, 162 SCRA 642.

[10] G.R. No. 108494, September 20, 1994, 236 SCRA 565.

[11] Pursuant to the Constitution, Republic Act No. 7438 was enacted and approved on April 27, 1992 and lays down the following mandates:

Sec. 2. Rights of Persons Arrested, Detained, or Under Custodial Investigation; Duties of Public Officers.

(a) Any person arrested, detained or under custodial investigation shall at all times be assisted by counsel.

(b) Any public officer or employee, or anyone acting under his order or in his place, who arrests, detains or investigates any person for the commission of an offense shall inform the latter, in a language known to and understood by him, of his rights to remain silent and to have competent and independent counsel, preferably of his own choice, who shall at all times be allowed to confer privately with the person arrested, detained or under custodial investigation. If such person cannot afford the services of his own counsel, he must be provided with a competent and independent counsel by the investigating officer.

(c) The custodial investigation report shall be reduced to writing by the investigating officer, provided that before such report is signed, or thumbmarked if the person arrested or detained does not know how to read and write, it shall be read and adequately explained to him by his counsel or by the assisting counsel provided by the investigating officer in the language or dialect known to such arrested or detained person, otherwise, such investigation report shall be null and void and of no effect whatsoever.

(d) Any extrajudicial confession made by a person arrested, detained or under custodial investigation shall be in writing and signed by such person in the presence of his counsel or in the latter's absence, upon a valid waiver, and in the presence of any of the parents, older brothers and sisters, his spouses, the municipal mayor, the municipal judge, district school supervisor, or priest or minister of the gospel as chosen by him; otherwise, such extrajudicial confession shall be inadmissible as evidence in any proceeding.

(e) Any waiver by a person arrested or detained under the provisions of Article 125 of the Revised Penal Code, or under custodial investigation, shall be in writing and signed by such person in the presence of his counsel; otherwise such waiver shall be null and void and of no effect.

(f) Any person arrested or detained or under custodial investigation shall be allowed visits by or conferences with any member of his immediate family, or any medical doctor or priest or religious minister chosen by him or by any member of his immediate family or by his counsel, or by any national non-governmental organization duly accredited by the Commission on Human Rights or by any international non-governmental organization duly accredited by the Office of the President. The person's immediate family shall include his or her spouse, fiancé or

fiancee, parent or child, brother or sister, grandparent or grandchild, uncle or aunt, nephew or niece, and guardian or ward.

As used in this Act, “custodial investigation” shall include the practice of issuing an “invitation” to a person who is investigated in connection with an offense he is suspected to have committed, without prejudice to the liability of the “inviting” officer for any violation of law.

[12] TSN, June 7, 1993, 3.

[13] Original Record, 73.

[14] TSN, May 25, 1993, 3; June 7, 1993, 5.

[15] *People vs. Bandula*, G.R. No. 89223, May 27, 1994, 232 SCRA 566; see also *People vs. Miana*, G.R. No. 91015, December 23, 1992, 216 SCRA 799; *People vs. Pamon*, G.R. No. 102005, January 25, 1993, 217 SCRA 501.

[16] *U.S. Gimeno*, 1 Phil. 236 (1902); See also Section 14, Rule 113.

[17] G.R. No. 85215, July 7, 1989, 175 SCRA 216, 229-231.

[18] Section 3, Rule 133 of the Rules of Court provides:

Sec. 3. Extrajudicial confession, not sufficient ground for conviction. - An extrajudicial confession made by an accused, shall not be sufficient ground for conviction, unless corroborated by evidence of corpus delicti.”

Note that what must be corroborated is the extrajudicial confession and not the testimony of the person to whom the confession is made, and the corroborative evidence required is not the testimony of another person who heard the confession but the evidence of corpus delicti (*People vs. Lorenzo*, G.R. No. 110107, January 26, 1995, 240 SCRA 624.).

[19] Par. 3, Section 12, Article III.

[20] *People vs. Cruz*, L-24424, March 30, 1970, 32 SCRA 181; *People vs. Salas, et al.*, L-35946, August 7, 1975, 66 SCRA 126; *People vs. Somontao*, L-45366-68, March 27, 1984, 128 SCRA 415; *People vs. Ola*, L-47147, July 3, 1987, 152 SCRA 1.

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