

SECOND DIVISION

[G.R. NO. 169431 (FORMERLY G.R. NOS. 149891-92), April 04, 2007]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JERRY RAPEZA Y FRANCISCO, APPELLANT.

D E C I S I O N

TINGA, J.:

In the complex but exquisite scheme laid down by the Constitution, the Bill of Rights occupies a position of primacy, way above the articles on governmental power.^[1] Once again, the Court extends fresh vitality to the rights of a person under custodial investigation, which, beginning with the 1987 Constitution, has been accorded equal but segregate weight as the traditional right against self-incrimination, to tip the scales of justice in favor of the presumption of innocence and the lot of an unlettered confessant.

This treats of the appeal from the Decision^[2] dated 1 July 2005 of the Court of Appeals affirming the Consolidated Judgment^[3] dated 24 July 2001 of the Regional Trial Court (RTC) of Palawan, Puerto Princesa City in Criminal Case Nos. 13064 and 13202 where Jerry Rapeza (appellant) was found guilty of two (2) counts of murder and sentenced to the penalty of *reclusion perpetua* for each count, plus a total of P100,000.00 as indemnity for the heirs of the two (2) victims.

In two (2) separate Informations, appellant, together with Mike Regino, was charged with the murder of the Spouses Cesar Ganson and Priscilla Libas,^[4] with the following accusatory allegations:

Criminal Case No. 13064

That on or about the 21st day of October, [sic] 1995, more or less 4:00 o'clock in the afternoon at Cawa-Cawa District, Municipality of Culion, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping each other, with evident premeditation, treachery and abuse of superior strength, with intent to kill and while armed with bladed weapons, did then and there wilfully [sic], unlawfully and feloniously attack, assault and stab with their bladed weapons, to wit: knives, PRI[S]CILLA LIBAS, hitting her in the different vital parts of her body and inflicting upon her multiple stab wounds which causes (sic) hypovolemic shock which were (sic) the direct and immediate cause of her instantaneous death.^[5]

Criminal Case No. 13202

That on or about the 21st day of October, [sic] 1995, more or less 4:00 o'clock in the afternoon at Cawa-Cawa District, Municipality of Culion, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping each other, with evident premeditation, treachery and abuse of superior strength, with intent to kill and while armed with bladed weapons, did then and there wilfully, [sic] unlawfully and feloniously attack, assault and stab with their bladed weapons, to wit: knives, CESAR GANZON, hitting him in the different vital parts of his body and inflicting upon him multiple stab wounds which causes hypovolemic shock which were the direct and immediate cause of his instantaneous death.[6]

As Mike Regino was at large, only appellant was arraigned and he pleaded not guilty. Forthwith, joint trial ensued which resulted in the judgment of guilt against appellant as co-principal for two (2) counts of murder, with conspiracy and evident premeditation attending the commission of the felonies. Both cases were thereafter elevated to this Court on automatic review, but later referred to the Court of Appeals per *People v. Mateo*. [7] The Court of Appeals affirmed the judgment of guilt. [8]

The prosecution had sought to establish the facts and events recited below.

In the afternoon of 21 October 1995, an unidentified woman went to the Culion Municipal Station and reported a killing that had taken place in Sitio Cawa-Cawa, Barangay Osmeña, Culion, Palawan. [9] The officer-in-charge, SPO2 Ciriaco Gapas, sent to the victims' house which was the scene of the crime an investigating team led by SPO2 Crisanto Cuizon, Jr. and PO2 Isidro Macatangay. There they saw two bloodied bodies, that of a woman lying on the floor of the sala and that of a man inside the bedroom. The investigating team wrapped the bodies in blankets and loaded them in a banca to be brought to the morgue. [10] The victims were later identified as Priscilla Libas and Cesar Ganzon.

The Autopsy Reports [11] show that the common cause of death of both victims was hypovolemic shock secondary to massive bleeding secondary to multiple stab wounds and that both bodies were in the early stages of decomposition. The medico-legal officer testified that Ganzon sustained six (6) wounds on different parts of his body while Libas bore sixteen (16) wounds. [12] All the wounds of the victims were fatal and possibly caused by a sharp instrument.

Upon information supplied by a certain Mr. Dela Cruz that appellant had wanted to confess to the crimes, SPO2 Gapas set out to look for appellant. [13] He found appellant fishing in Asinan Island and invited the latter for questioning. Appellant expressed his willingness to make a confession in the presence of a lawyer. [14] Appellant was then brought to the police station after which SPO2 Gapas requested Kagawad Arnel Alcantara to provide appellant with a lawyer. The following day, appellant was brought to the house of Atty. Roberto Reyes, the only available lawyer in the municipality. [15] The typewriter at the police station was out of order at that time and Atty. Reyes could not go to the police station as he was suffering from

rheumatism.^[16] At the house of Atty. Reyes, in the presence of Vice-Mayor Emiliano Marasigan of Culion, two (2) officials of the *Sangguniang Barangay*, SPO2 Cuizon and an interpreter, SPO2 Gapas proceeded with the custodial investigation of appellant who was assisted by Atty. Reyes. Appellant was expressly advised that he was being investigated for the death of Libas and Ganzon.

Per the *Sinumpaang Salaysay*^[17] that appellant executed, he was informed of his constitutional rights in the following manner:

x x x x

Tanong: Bago kita kunan ng isang salaysay, ikaw ay mayroong karapatan sa ating Saligang Batas na sumusunod:

- a) Na, ikaw ay maaaring hindi sumagot sa tanong na sa iyong akala ay makaka-apekto sa iyong pagkatao;
- b) Na, ikaw ay may karapatang pumili ng isang manananggol o abogado na iyong sariling pili;
- c) Na, kung ikaw ay walang kakayahan kumuha ng isang ab[u]gado ang Pulisya ang siyang magbibigay sa iyo.
- d) Na, ang lahat na iyong sasabihin ay maaaring gawing ebidensya pabor o laban sa iyo.

Sagot: Opo, sir.

Tanong: Nakahanda ka na bang ipag-patuloy ang pagsisiyasat na ito, na ang ating gagamiting salita ay salitang Tagalog, na siyang ginagamit nating [sic]?

Sagot: Opo, sir.

x x x^[18]

Thereupon, when asked about the subsequent events, appellant made the following narration:

x x x

Tanong: Maari mo bang isalaysay ang pang-yayari [sic]?

Sagot: Opo, [n]oong Sabado ng umaga alas 8:00[,] petsa 21 ng Oktobre, 1995, kami ni Mike ay nagkaroon ng pag-iinuman sa kanilang bahay sa Cawa-Cawa at sinabi sa akin [sic] puntahan naming iyong matanda, dahil may galit daw si Mike sa dalawang matanda [Pris]cilla Libas at Cesar Ganzon) na nakatira din sa Cawa-Cawa at ang layo ay humigit-kumulang isang daang metro sa aming pinag-iinuman at kami ay nakaubos ng labing dalawang bote ng beer, mula umaga hanggang alas kuatro ng hapon at habang kami ay nag-iinom aming pinag-uusapan [sic] ang pagpatay sa dalawang matanda. Noong sinasabi sa akin ni

Mike, ako umayaw ngunit ako ay pinilit at sinabihan ko rin siya (Mike) at pinag-tatapon [sic] pa niya ang bote ng beer at may sinabi pa si Mike "hindi ka pala marunong tumulong sa akin, pamangkin mo pa naman ako." At ang sagot ko sa kanya, ay maghintay ka, mamayang hapon natin[g] puntahan. At noong humigit-kumulang [sa alas] [sic] kuatro ng hapon, amin ng pinuntahan ang bahay ng mag-asawa, at pagdating namin sa bahay na dala naming [sic] ang patalim, tuloy-tuloy na kaming umakyat, at hinawakan ni Mike ang babae (Presing) at nilaslas na ang leeg at sinaksak ng sinaksak niya sa iba't ibang parte ng katawan at ako ay umakyat din sa bahay at nakita kong nakataob ang lalaki (Cesar)[,] aking hinawakan [sic] ko sa kanyang balikat, at siya ay nakaalam [sic] na mayroong tao sa kanyang likuran, akin nang sinaksak sa kaliwang tagiliran [sic] ng kanyang katawan, at hindi ko na alam ang sumunod na pang-yayari [sic] dahil ako[']y tuliro. At kami ay umalis at tumalon sa likod ng kusina, nang alam na naming [sic] na patay [na] iyong dalawang matanda.

x x x x^[19]

An interpreter was provided appellant as he was not well versed in Tagalog being a native of Samar. As he is illiterate, appellant affixed only his thumbmark on the statement above his printed name. Bonifacio Abad, the interpreter, and Atty. Reyes, as the assisting counsel, also signed the statement. Atty. Reyes signed again as the notary public who notarized the statement.

Thereafter, a complaint for multiple murder was filed against appellant, and Regino was likewise arrested. Judge Jacinto Manalo of the Municipal Trial Court (MTC) of Culion conducted a preliminary investigation. Finding probable cause only as against appellant, Regino was ordered released.^[20] The Provincial Prosecutor, however, reversed the finding of the MTC by including Regino in the Informations, but by then the latter had already left Culion.^[21]

Testifying in his defense, appellant presented a different story during the trial. The defense presented no other witness.

Appellant testified that he did not know the victims and that he had nothing to do with their deaths. He was a native of Samar and he did not know how to read or write as he never attended school.^[22] He arrived in Culion as a fisherman for the Parabal Fishing Boat.^[23] As his contract had already expired, he stayed in Culion to look for work. He lived with Regino as the latter was his only friend in Cawa-Cawa.^[24] Regino's house was about 40 meters away from the victims' house.

Several days after appellant's arrival, the killings took place. Appellant, along with Regino and another man named Benny Macabili, was asked by a police officer to help load the bodies of the victims in a banca. Shortly thereafter, appellant was arrested and brought to the municipal hall where he was mauled by PO2 Macatangay and placed in a small cell.^[25] Regino, too, was arrested with him. While under detention, appellant told the police that it was Regino who was responsible for the killing of the victims but the police did not believe appellant. But appellant later testified that he implicated Regino only in retaliation upon learning that the latter

pointed to him as the perpetrator.^[26] Appellant was then asked by SPO2 Gapas to sign a document so that he will be released. When appellant replied that he did not know how to sign his name, SPO2 Gapas took appellant's thumb, dipped it in ink and marked it on the document. ^[27] Appellant claimed he did not resist because he was afraid of being mauled again.

Appellant further denied going to the house of Atty. Reyes or meeting Abad, the alleged interpreter. He never left the jail from the time he was arrested except to attend the hearing before the MTC.^[28] When appellant was brought to the MTC, nobody talked to him during the hearing nor did counsel assist him.^[29] He was thereafter brought by a police officer to a hut in a mountain where he was told to go a little bit farther. He refused for fear of being shot. The police officer then got angry and punched him in the stomach.^[30]

On the basis of appellant's extrajudicial confession, the RTC found him guilty of both crimes. The Court of Appeals upheld the trial court.

Appellant submits for our resolution two issues, namely: (1) whether his guilt was proven beyond reasonable doubt; and (2) whether the qualifying circumstance of evident premeditation was likewise proven beyond reasonable doubt.

Appellant mainly contends that the extrajudicial confession upon which the trial court placed heavy emphasis to find him guilty suffers from constitutional infirmity as it was extracted in violation of the due process guidelines. Specifically, he claims that he affixed his thumbmark through violence and intimidation. He stresses that he was not informed of his rights during the time of his detention when he was already considered a suspect as the police had already received information of his alleged involvement in the crimes. Neither did a competent and independent counsel assist him from the time he was detained until trial began. Assuming Atty. Reyes was indeed designated as counsel to assist appellant for purposes of the custodial investigation, said lawyer, however, was not appellant's personal choice.

Appellant likewise maintains that although the *Sinumpaang Salaysay* states that his rights were read to him, there was no showing that his rights were explained to him in a way that an uneducated person like him could understand. On the assumption that the confession is admissible, appellant asserts that the qualifying circumstance of evident premeditation was not amply proven as the trial court merely relied on his alleged confession without presenting any other proof that the determination to commit the crime was the result of meditation, calculation, reflection or persistent attempt.

The Solicitor General, on the other hand, contends that the constitutional guidelines on custodial investigation were observed. Hence, appellant's *Sinumpaang Salaysay* is admissible. Even if appellant was not informed of his constitutional rights at the time of his alleged detention, that would not be relevant, the government counsel argues, since custodial investigation began only when the investigators started to elicit information from him which took place at the time he was brought to the house of Atty. Reyes. Moreover, appellant did not interpose any objection to having Atty. Reyes as his counsel. As to the qualifying circumstance of evident premeditation, the Solicitor General submits that the same was sufficiently proven when accused proceeded to the victims' house together with Regino, armed with