

## EN BANC

[ G.R. No. 153119, April 13, 2004 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ANTONIO REYES Y MAGANO, APPELLANT.**

### DECISION

**CALLEJO, SR., J.:**

Before us on automatic appeal is the Decision<sup>[1]</sup> of the Regional Trial Court of Sta. Cruz, Laguna, Branch 28, convicting the appellant Antonio Reyes y Magano of robbery with homicide and sentencing him to suffer the penalty of death.

#### The Indictment

The appellant was charged with robbery with homicide in an Information, the accusatory portion of which reads:

That on or about June 11, 1998, in the municipality of Lumban, Province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain, and while conveniently armed with a bolo, by means of violence against or intimidation of person, did then and there willfully, unlawfully and feloniously take, steal and carry away one (1) ladies wristwatch marked Rolex; one (1) gold bracelet; one (1) gold ring with birthstone of Jade; one (1) Pass Book in the name of the victim/Aurora Lagrada, in the total amount of P80,000.00, all belonging to Aurora Lagrada, to her damage and prejudice, in the aforementioned amount, that by reason or on the occasion of the said robbery accused with intent to kill and while conveniently armed with a bolo, did then and there willfully, unlawfully and feloniously attack, assault and stab one AURORA LAGRADA several times in the different parts of her body, which directly caused her instantaneous death, to the damage and prejudice of her surviving heirs.

CONTRARY TO LAW.<sup>[2]</sup>

The appellant was arraigned, assisted by counsel, and entered a plea of not guilty.

#### The Case for the Prosecution<sup>[3]</sup>

Dr. Aurora Lagrada, a spinster of about seventy years old, lived alone in her two-storey house located at General Luna Street, Barangay Balimbingan, Lumban, Laguna. The doctor was the sole proprietor of the Neal Construction and Supplies located at No. 90 General Luna Street, Lumban, Laguna.<sup>[4]</sup> The appellant's house was about four to five meters away from the doctor's house. He lived with his mother and brother.

At around 11:00 p.m. on June 11, 1998, Barangay Captain William Magpantay received a radio report from barangay kagawad that someone managed to gain entry into the house of Lagrada, and that she had shouted for help. Magpantay, a barangay councilman and a barangay tanod responded and proceeded to the house of the doctor. When they knocked on the door, no one responded. The barangay captain then proceeded to the Lumban Police Station and reported the matter to the policemen. SPO2 Maximo Gonzales and SPO1 Pedro Nacor, Jr. responded to the report and, accompanied by Magpantay, proceeded to the house of Lagrada. [5]

When they arrived at the house, the policemen passed by the garage and opened the door. They saw the bloodied Lagrada, naked from the waist up, sprawled sidewise on the floor opposite the sink near the kitchen.[6] Near the cadaver was a bolo (*itak*). Gonzales took custody of the bolo.[7] Magpantay noticed that Lagrada's neighbors, anxious to know what had happened, were in the vicinity. The appellant, however, was nowhere to be found.[8]

Magpantay and the policemen went to the appellant's house. The appellant's mother and brother informed them that the latter was in Barangay Concepcion.[9] Magpantay, Barangay Chairman Floro Bulderon and the policemen proceeded to the place, but failed to locate the appellant. They then returned to the Lumban Police Station where Noel Saniste (Samonte) told them that the appellant was in the vicinity of the town plaza in Sta. Cruz, Laguna.[10] In a mobile police car, the policemen and Magpantay rushed to the place and saw the appellant in the town plaza on board a tricycle, apparently on his way to the Kapalaran Bus Station in that town. The appellant was handcuffed and boarded in the mobile police car. He was told that he was a suspect in the killing of Lagrada.[11] While the car was on its way to Lumban, Gonzales ordered Magpantay to frisk the appellant. Magpantay did so, and found the following: two watches - a Rolex and Wittnauer in the right pocket of the appellant's pants; bank passbook no. 164764 issued by the Solid Bank under the name of Lagrada; a gold bracelet and a gold ring; and in the appellant's left pocket, the amount of P130.00. Magpantay turned over the articles and money to Gonzales.[12]

The policemen proceeded to the house of the appellant where they found a pair of slippers and the green-colored t-shirt which the appellant wore when he broke into Lagrada's house.[13] At the police station, Gonzales and Nacor, Jr. turned over the appellant to SPO2 Benedicto del Mundo who was designated as the investigator-on-case.[14] By then, it was about 1:30 a.m. of June 12, 1998. The incident was placed in the police blotter.[15]

In the meantime, the appellant was bothered by his conscience and stated that he wanted to execute an extrajudicial confession.[16] Del Mundo informed the appellant of his right to be assisted by counsel of his own choice. He also asked the appellant if he had any lawyer. The appellant replied that he had none, and asked Del Mundo to procure a lawyer to assist him. Del Mundo managed to locate Atty. Wilfredo Paraiso, a practicing lawyer in Lumban, Laguna, then President of the Integrated Bar of the Philippines, Laguna Chapter, and a member of the Knights of Columbus. At that time, Atty. Paraiso was at the patio of the Catholic church talking with fellow

knights after participating in the Independence Day parade.<sup>[17]</sup> Del Mundo informed Atty. Paraiso that policemen had just arrested and detained the appellant, and that the latter had expressed his desire to execute an extra-judicial confession for which the assistance of counsel was needed. Del Mundo asked Atty. Paraiso to assist the appellant. The lawyer informed the appellant of his constitutional rights, including his right to counsel, and told the appellant that he was volunteering his services to assist him. The appellant agreed to be assisted by Atty. Paraiso.<sup>[18]</sup>

Atty. Paraiso then explained to the appellant his constitutional right to remain silent; that if he did not want to make any confession, it was his right to do so; and that any admission he made in his confession may be used against him. The appellant told Atty. Paraiso that he would proceed with his confession because his conscience bothered him. Atty. Paraiso inquired from the appellant if he had been forced, coerced and intimidated into agreeing to give a confession, or if somebody had offered to give him any reward in consideration of any statement he would give to the investigator. The appellant replied that he was not intimidated, coerced nor forced into giving a confession.<sup>[19]</sup>

Del Mundo, nevertheless, enumerated and explained to the appellant his constitutional rights before commencing with his investigation in the presence of Atty. Paraiso.<sup>[20]</sup> After the investigation, Del Mundo showed the sworn statement to Atty. Paraiso and the appellant. Atty. Paraiso explained the contents of the sworn statement to the appellant. The latter then signed on top of his typewritten name on page 1 thereof, on the left margin of page 2, and atop his typewritten name on page 3. Atty. Paraiso followed suit. However, it being a holiday, there was no public officer available in the municipal building before whom the appellant could swear to the truth of his confession. Del Mundo requested Atty. Paraiso, being a notary public, to notarize the sworn statement. Paraiso agreed and affixed his signature above his typewritten name on page 3 thereof, as Notary Public.<sup>[21]</sup>

Pictures of the articles seized from the appellant were taken, including the bolo, his green t-shirt and the pair of slippers. The appellant was made to stand beside a table on top of which the said articles were placed and photographed.<sup>[22]</sup>

On June 15, 1998, Dr. Leoncia M. delos Reyes, performed an autopsy on the cadaver of Lagrada and submitted her postmortem report which contained her findings, viz:

Autopsy Report – June 12, 1998, 2:30 AM

Subject: Aurora Lagrada y Macabuhay, 74 years old, female, single, retired government official who was found dead in her residence at Gen. Luna St., Brgy. Balimbingan, Lumban, Laguna, on June 11, 1998.

Findings: Cadaver in a state of rigor mortis, in right lateral position, both hands and arms clenched towards the chest. Both legs are flexed, tongue bitten and slightly protruding, bleeding from the mouth with clots. Said cadaver wearing bermuda short and blouse almost worn off exposing the upper half of the body. Pool of (sic) around the body and floor.

External Findings:

1. Wound incised. 3x1 cms., superficial, submammary area, 3 cms. from the midline through and through to the back (point of entrance).
2. Wound incised 2 cms. infra-scapular area, right. (point of exit).
3. Wound incised, 3 cms. neck, left, oozing of blood.
4. Hematoma, right neck.

Internal Findings:

No intra-thoracic nor intra-abdominal hemorrhage all internal organs intact.

Pelvic Exam:

Underwear intact, no signs of external violence, perineum intact and dry.

Cause of Death:

Hemorrhagic Shock.<sup>[23]</sup>

Dr. Delos Reyes also signed Lagrada's Certificate of Death.<sup>[24]</sup>

Gonzales and Nacor, Jr. executed a Joint Affidavit on the incident.<sup>[25]</sup> Norma Quetulio executed a sworn statement<sup>[26]</sup> in which she stated that her sister, Aurora Lagrada, owned the ring, the bracelet, and the two watches which were confiscated from the appellant, and that the said articles were worth P80,000.00.<sup>[27]</sup> She testified that before Lagrada was killed, the latter was employed by the AMA Computer College, Sta. Cruz, Laguna, as Professor 2, with a monthly salary of P2,000.00, later increased to P5,700.00 a month; and, being a retired public school teacher, she was also receiving a monthly pension of P3,000.00 from the Social Security System. The victim was also the sole proprietor of the Neal Construction and Supplies.<sup>[28]</sup>

### **The Case for the Appellant**

The appellant denied any involvement in the killing of Lagrada and of robbing her of money and pieces of jewelry.

The appellant testified that he was never investigated by Del Mundo. He did not hire Atty. Wilfredo Paraiso as his counsel to assist him while being investigated by the policemen. Del Mundo merely referred the lawyer to him.<sup>[29]</sup> The appellant claimed that he had no conference with the lawyer before and after his custodial investigation. He merely affixed his signature on a piece of paper with some writings on it when it was presented to him. This was after the policemen threatened him at the station. The signature above the typewritten name, Antonio Reyes, on the third page of the statement<sup>[30]</sup> was not his signature. Contrary to the extrajudicial confession, he finished third year in high school.

After trial, the court rendered judgment convicting the appellant of the crime charged. The decretal portion of the decision reads:

WHEREFORE, IN THE LIGHT OF ALL THE FOREGOING CONSIDERATIONS, the Court finds the accused ANTONIO REYES y MAGANO, GUILTY BEYOND

REASONABLE DOUBT, as PRINCIPAL of the offense of ROBBERY WITH HOMICIDE as alleged in the Information and defined and punished under Art. 294, No. 1 of the Revised Penal Code, as amended by the DEATH PENALTY LAW, and further taking into consideration against the accused the aggravating circumstances of his commission of the offense in the dwelling of the offended party without any provocation given by the latter and the complete disregard of the respect due to the offended party on account of her age and sex and without any mitigating circumstance that would offset the same, hereby sentences the accused to suffer the SUPREME PENALTY OF DEATH and to pay the heirs of the deceased AURORA LAGRADA as represented by Maria, Godofredo, Norma, Herminia, Edna and Magdalena, all surnamed LAGRADA the sum of P50,000.00 as civil indemnity for the death of Aurora Lagrada and P65,000.00 for funeral expenses or a total amount of P115,000.00 and to pay the cost of the instant suit.

SO ORDERED.<sup>[31]</sup>

The appellant assails the decision of the trial court asserting that:

I

THE LOWER COURT ERRED IN NOT APPRECIATING THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT.

II

THE LOWER COURT ERRED IN ADMITTING AS EVIDENCE THE STOLEN ITEMS ALLEGEDLY SEIZED FROM THE ACCUSED-APPELLANT WHICH, AS THE RECORDS DISCLOSE, WERE PRODUCTS OF AN ILLEGAL SEARCH.<sup>[32]</sup>

The Court shall delve into and resolve the assignment of errors jointly, being interrelated.

The appellant asserts that the extrajudicial confession<sup>[33]</sup> is inadmissible in evidence because the signature above his typewritten name on page 3 thereof is a forgery. He avers that he was forced by SPO2 Benedicto del Mundo and another policeman to sign a blank page at the town plaza in the presence of Atty. Wilfredo Paraiso. According to him, that blank page which he signed is now the first page of the extrajudicial confession. Furthermore, there is a patent and utter dissimilarity between his genuine signature on page 1 of the extrajudicial confession and his purported signature on page 3 thereof.

The appellant claims that SPO2 Benedicto del Mundo and Atty. Wilfredo Paraiso are not even in accord as to the precise time when the appellant signed the said confession. The appellant contends that Barangay Captain William Magpantay, SPO2 Maximo Gonzales and SPO1 Pedro N. Nacor, Jr. seized the money and articles from him in the mobile car and from his house without any search warrant therefor, when he was already arrested by the policemen. As such, the articles are inadmissible in evidence. Given the inadmissibility of the extrajudicial confession and the money and articles seized from him, the prosecutor failed to prove his guilt beyond reasonable doubt for the crime charged.