

## FIRST DIVISION

**[ G.R. No. 205412, September 09, 2015 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ADRIAN GUTING Y TOMAS, ACCUSED-APPELLANT.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

For Our consideration is an appeal from the Decision<sup>[1]</sup> dated May 23, 2012 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04596, which affirmed the Decision<sup>[2]</sup> dated June 24, 2010 of the Regional Trial Court (RTC), Camiling, Tarlac, Branch 68, in Criminal Case No. 06-93, finding accused-appellant Adrian Guting y Tomas guilty of the crime of Parricide under Article 246 of the Revised Penal Code.

In an Information<sup>[3]</sup> dated August 1, 2006, docketed as Criminal Case No. 06-93, accused-appellant was charged before the RTC with Parricide, allegedly committed as follows:

That on or about 4:50 in the rainy afternoon of July 30, 2006 at Plaridel St., Poblacion B. Camiling, Tarlac, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously, and with evident premeditation, that is, having conceived and deliberated to kill his own father Jose Guting y Ibarra, 67 years old, married, while inside their residential house, and armed with a bladed weapon, suddenly and unexpectedly stabbed several times the victim, employing means, manner and form in the execution thereof which tender directly and specially to insure its commission without danger to the person of said accused, the result of which attack was that said victim received multiple stab wounds on his body which directly caused his instantaneous death.

When arraigned on September 19, 2006, accused-appellant pleaded not guilty to the crime charged.<sup>[4]</sup> Thereafter, pre-trial and trial on the merits ensued.

Below is a summary of the prosecution witnesses' testimonies.

Police Officer (PO1) Fidel Torre (Torre) testified that on the rainy afternoon of July 30, 2005, at around 5:00 o'clock, he and PO1 Alexis Macusi (Macusi) were standing in front of the Camiling Police Station when accused-appellant, all wet from the rain and with a bladed weapon in his hand, suddenly approached them and told them that he had stabbed his father. Hearing accused-appellant's statement, PO1 Torre immediately got the bladed weapon from accused-appellant and turned it over to PO1 Macusi for proper disposition.<sup>[5]</sup>

PO1 Macusi corroborated PO1 Torre's testimony. PO1 Macusi narrated that accused-

appellant suddenly appeared before them at the Police Station, all wet and holding a knife. Accused-appellant proclaimed that his father was already dead. Unsuspecting, PO1 Macusi asked who killed accused-appellant's father. Accused-appellant answered, "*Sinaksak ko po yong tatay ko! Napatay ko na po!*" PO1 Torre then got the knife from accused-appellant and gave it to PO1 Macusi. PO1 Macusi placed the knife in the custodian cabinet in the Police Station. Thereafter, PO1 Macusi, Senior Police Officer (SPO) 2 Eliseo Hermosado (Hermosado), and SPO2 Noli Felipe (Felipe) went to the residence of Jose Guting (Jose), accused-appellant's father, to verify the reported crime, while other police officers informed Flora Guting (Flora), Jose's wife (also accused-appellant's mother), who was still in the market with Emerlito Guting (Emerlito), Jose and Flora's other son (accused-appellant's brother), who was then driving a tricycle for hire. While waiting for Flora and Emerlito, PO1 Macusi, SPO2 Hermosado, and SPO2 Felipe inquired from the neighbors if anybody had witnessed the crime, but no one did. When Flora and Emerlito arrived, they entered the house and saw Jose's lifeless body with blood still oozing from his wounds. Immediately, Flora and Emerlito brought Jose to the hospital where he was pronounced dead on arrival. Subsequently, Flora and Emerlito executed their respective *Sinumpaang Salaysay* and filed a case for Parricide against accused-appellant.<sup>[6]</sup>

On cross-examination, PO1 Macusi divulged that when the knife was given to him by PO1 Torre for safekeeping, he did not ask accused-appellant if it was the knife he used to kill his father. Neither did accused-appellant mention to PO1 Macusi that it was the knife he used in stabbing Jose. All that accused-appellant said was, "*Sinaksak ko po yong tatay ko! Napatay ko na po!*" PO1 Macusi also admitted that he did not request for the examination of the knife because it was clean; any trace or stain of blood on it would have been washed away by the rains at that time. PO1 Macusi was further questioned as to why he did not put into writing accused-appellant's admission that he killed his father, and PO1 Macusi explained that it escaped his mind as he was still new at the job then and he was carried away by the fast flow of events.<sup>[7]</sup>

Flora conceded that she was not present when Jose, her husband, was killed by accused-appellant, their son. Flora only learned of the stabbing incident and accused-appellant's surrender from the police officers of the Camiling Police Station. Flora declared that she spent for the wake and burial of Jose and that Jose, who was a tricycle driver, had been earning around P200.00 a day at the time of his death.<sup>[8]</sup>

Doctor Valentin Theodore Lomibao (Dr. Lomibao) conducted the autopsy of Jose's body. Dr. Lomibao reported that Jose suffered around 39 stab wounds on the head, neck, thorax, abdomen, and extremities. Jose's internal organs were heavily damaged by the stab wounds, resulting in his instantaneous death. Dr. Lomibao also showed several pictures of Jose's body which were taken before he conducted the autopsy.<sup>[9]</sup>

Accused-appellant opted not to present any evidence in his defense.

The RTC promulgated its Decision on June 24, 2010 finding accused-appellant guilty of Parricide based on his verbal admission that he killed his father, Jose. Even assuming that accused-appellant's admission was inadmissible in evidence, the RTC adjudged that the prosecution was still able to establish sufficient circumstantial

evidence which, taken collectively, pointed to accused-appellant as the perpetrator of the brutal killing of his father. The dispositive portion of the RTC judgment reads:

WHEREFORE, accused Adrian Guting y Tomas is hereby found guilty beyond reasonable doubt of the offense of Parricide punishable under Article 246 of the Revised Penal Code, as amended and hereby sentences him to a penalty of *Reclusion Perpetua*.

Accused is likewise ordered to pay the heirs of the victim the amount of P50,000.00 as civil indemnity, another amount of P50,000.00 as moral damages, and still another amount of P30,000.00 as temperate damages.<sup>[10]</sup>

Accused-appellant appealed his conviction before the Court of Appeals, docketed as CA-G.R. CR.-H.C. No. 04596. The appellate court promulgated its Decision on May 23, 2012, decreeing thus:

**WHEREFORE**, the appeal is **DENIED**. The Decision of the Regional Trial Court of Camiling, Tarlac, Branch 68 convicting herein accused-appellant Adrian Guting y Tomas for the crime of Parricide under Article 246 of the Revised Penal Code is **AFFIRMED**.<sup>[11]</sup>

Hence, accused-appellant comes before us via the instant appeal with the same assignment of errors he raised before the Court of Appeals, to wit:

#### I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT ON THE BASIS OF HIS EXTRAJUDICIAL ADMISSION.

#### II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT ON THE BASIS OF INSUFFICIENT CIRCUMSTANTIAL EVIDENCE.

#### III

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN HIS FAVOR.<sup>[12]</sup>

We find no merit in accused-appellant's appeal.

Accused-appellant argues that his oral confession to PO1 Torre and PO1 Macusi, without the assistance of counsel, is inadmissible in evidence for having been made in blatant violation of his constitutional right under Article III, Section 12 of the 1987 Constitution.

Section 12, paragraphs 1 and 3, Article III (Bill of Rights) of the 1987 Constitution mandate that:

SEC. 12. (1) Any 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 competent and 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.

x x x x

(3) Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.<sup>[13]</sup>

The "investigation" in Section 12, paragraph 1, Article III of the 1987 Constitution pertains to "custodial investigation." Custodial investigation commences when a person is taken into custody and is singled out as a suspect in the commission of a crime under investigation and the police officers begin to ask questions on the suspect's participation therein and which tend to elicit an admission.<sup>[14]</sup> As we expounded in *People v. Marra*<sup>[15]</sup>:

Custodial investigation involves any 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*. It is only after the investigation ceases to be a general inquiry into an unsolved crime and begins to focus on a particular suspect, *the suspect is taken into custody, and the police carries out a process of interrogations that lends itself to eliciting incriminating statements* that the rule begins to operate. (Citation omitted.)

Applying the foregoing definitions, accused-appellant was not under custodial investigation when he admitted, without assistance of counsel, to PO1 Torre and PO1 Macusi that he stabbed his father to death. Accused-appellant's verbal confession was so spontaneously and voluntarily given and was not elicited through questioning by the police authorities. It may be true that PO1 Macusi asked accused-appellant who killed his father, but PO1 Macusi only did so in response to accused-appellant's initial declaration that his father was already dead. At that point, PO1 Macusi still had no idea who actually committed the crime and did not consider accused-appellant as the suspect in his father's killing. Accused-appellant was also merely standing before PO1 Torre and PO1 Macusi in front of the Camiling Police Station and was not yet in police custody.

Accused-appellant cites in support of his argument *People v. Cabintoy*,<sup>[16]</sup> where we held that an uncounselled extrajudicial confession without a valid waiver of the right to counsel - that is, in writing and in the presence of counsel - is inadmissible in evidence. The situation of accused-appellants in *Cabintoy* is not similar to that of accused-appellant herein. The accused-appellants in *Cabintoy*, when they executed their extrajudicial confessions without assistance of counsel, were already suspects under custodial investigation by the San Mateo Police for robbery with homicide committed against a taxi driver. Accused-appellant in the instant case, on his own volition, approached unsuspecting police officers standing in front of the police station with a knife in his hand and readily confessed to stabbing his father to death. Accused-appellant was arrested and subjected to custodial investigation by the police officers only **after** his confession.

Hence, herein accused-appellant's confession, even if done without the assistance of a lawyer, is not in violation of his constitutional right under Section 12, paragraph 1, Article III of the 1987 Constitution. The present case is more akin to *People v. Andan*<sup>[17]</sup> wherein we allowed into evidence the uncounselled confession of therein accused-appellant given under the following circumstances:

Under these circumstances, it cannot be successfully claimed that appellant's confession before the mayor is inadmissible. It is true that a municipal mayor has "operational supervision and control" over the local police and may arguably be deemed a law enforcement officer for purposes of applying Section 12 (1) and (3) of Article III of the Constitution. However, appellant's confession to the mayor was not made in response to any interrogation by the latter. In fact, the mayor did not question appellant at all. No police authority ordered appellant to talk to the mayor. It was appellant himself who spontaneously, freely and voluntarily sought the mayor for a private meeting. The mayor did not know that appellant was going to confess his guilt to him. When appellant talked with the mayor as a confidant and not as a law enforcement officer, his uncounselled confession to him did not violate his constitutional rights. Thus, it has been held that the constitutional procedures on custodial investigation do not apply to a spontaneous statement, not elicited through questioning by the authorities, but given in an ordinary manner whereby appellant orally admitted having committed the crime. What the Constitution bars is the compulsory disclosure of incriminating facts or confessions. The rights under Section 12 are guaranteed to preclude the slightest use of coercion by the state as would lead the accused to admit something false, not to prevent him from freely and voluntarily telling the truth. Hence, we hold that appellant's confession to the mayor was correctly admitted by the trial court.

Moreover, accused-appellant's verbal confession that he stabbed his father to death made to PO1 Torre and PO1 Macusi, established through the testimonies of said police officers, falls under Rule 130, Section 26 of the Rules of Court, which provides that "[t]he act, declaration or omission of a party as to a relevant fact may be given in evidence against him." This rule is based upon the notion that no man would make any declaration against himself, unless it is true.<sup>[18]</sup> Accused-appellant's declaration is admissible for being part of the *res gestae*. A declaration is deemed part of the *res gestae* and admissible in evidence as an exception to the hearsay rule when these three requisites concur: (1) the principal act, the *res gestae*, is a startling occurrence; (2) the statements were made before the declarant had time to contrive or devise; and (3) the statements concern the occurrence in question and its immediately attending circumstances.<sup>[19]</sup> All the requisites are present in this case. Accused-appellant had just been through a startling and gruesome occurrence, that is, his father's death. Accused-appellant made the confession to PO1 Torre and PO1 Macusi only a few minutes after and while he was still under the influence of said startling occurrence, before he had the opportunity to concoct or contrive a story. In fact, accused-appellant seemed to still be in shock when he walked to the Police Station completely unmindful of the rain and the knife in his hand, and headed directly to PO1 Torre and PO1 Macusi, who were standing in front of the Police Station, to confess to stabbing his father to death. The police officers