

EN BANC

[G.R. No. 152289, January 14, 2004]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MARLON JUAN Y
LESTE, APPELLANT.**

D E C I S I O N

CORONA, J.:

Before us for automatic review is the decision^[1] of the Regional Trial Court of Aparri, Cagayan, Branch 8, Second Judicial Region, finding the appellant, Marlon Juan, guilty beyond reasonable doubt of the crime of parricide and sentencing him to suffer the supreme penalty of death.

The information dated July 24, 2001 charged appellant with the crime of parricide as follows:

That on or about April 23, 2001, in the municipality of Aparri, province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife and a [sic] "asador," with intent to kill, did then and there willfully, unlawfully and feloniously assault, attack and stab one Yolanda Juan y Leste, his legitimate mother, inflicting upon her multiple stab wounds which caused her death.

CONTRARY TO LAW.^[2]

Upon arraignment on September 17, 2001, appellant, duly assisted by counsel *de oficio*, pleaded guilty to the crime charged.^[3]

During the pre-trial conference on October 11, 2001, appellant admitted the following facts presented by the prosecution:

1. identity of the accused – that whenever the name Marlon Juan was mentioned, it referred to the accused;
2. identity of the victim – Yolanda Juan;
3. that accused Marlon Juan was the son of the victim and that the victim was the legitimate mother of the accused;
4. that the accused killed the victim on April 23, 2001 inside the victim's house at Barangay Punta, Aparri, Cagayan with the use of a pointed iron bar; and
5. that the victim died of multiple stab wounds as shown by the medical certificate and the post mortem report issued and signed by

Dr. Robert Ogalino.^[4]

Thereafter, trial on the merits ensued.

On January 9, 2002, the trial court promulgated its decision, the dispositive portion of which read:

WHEREFORE, the Court finds accused Marlon Juan y Leste "GUILTY" beyond reasonable doubt of the crime of "Parricide" for killing his mother and is hereby sentence [sic] to suffer the supreme penalty of "DEATH."

SO ORDERED.^[5]

The facts follow.

On April 23, 2001, around 10:00 p.m., Yolanda Juan opened the door of their house to let her son, herein appellant Marlon Juan, in. Deogracias Juan (Yolanda's husband and appellant's father) who was resting inside their bedroom could hear his wife and son's voice. Appellant who was high on drugs demanded delicious food for dinner. Moments after, Deogracias heard the throwing and breaking of plates. Then he heard Marvin (appellant's brother) yelling "*Ni Nanang natayen*" ("Mother is dead already"). Deogracias immediately proceeded to the porch where Marvin's voice came from and saw appellant in the act of stabbing Marvin. Deogracias grabbed the *asador* (pointed iron bar) from the appellant and they wrestled for its possession. Eventually, Deogracias got control of the *asador*. Appellant then drew a knife from his waist and tried to stab Deogracias but the latter was able to wrest the knife away from the appellant. Appellant ran away. When Deogracias finally turned his attention to his wife, only then did he realize that indeed she was already dead. Yolanda was lying face down on the floor, no longer breathing. Deogracias nevertheless still brought her to the hospital where she was pronounced dead on arrival.^[6]

The statement of Marvin Juan to the effect that "he was the brother of the accused and that he saw the accused kill their mother" was no longer heard by the trial court because the appellant admitted the truth of such testimony.^[7]

The prosecution formally offered the following documentary evidences: (1) death certificate (Exhibit "A") and postmortem examination report (Exhibit "B") to prove the death of the victim and (2) birth certificate of appellant Marlon Juan to prove that he was the legitimate son of the victim.^[8]

The defense waived the presentation of appellant's evidence.^[9]

On the basis of the evidence presented by the prosecution which was not refuted by the defense, the trial court ruled that it was "clear as the snow of the Alps" that appellant was guilty of the crime of parricide and sentenced him to suffer the supreme penalty of death.^[10]

Appellant is before us, not to question his conviction for the crime of parricide by the trial court but to question the death penalty imposed on him. Appellant contends that the proper penalty imposable on him is *reclusion perpetua*, not death.^[11]

The appeal is meritorious.

Under Article 246 of the Revised Penal Code (hereafter the Code), the crime of parricide is punishable by *reclusion perpetua* to death. Since the penalty for the crime of parricide is composed of two indivisible penalties (*reclusion perpetua* to death), the imposition of the proper indivisible penalty on appellant is governed by Article 63 of the Code which provides:

Article 63. Rules for the application of indivisible penalties.

x x x

x x x

x x x

In all cases in which the law prescribes a penalty composed of two indivisible penalties the following rules shall be observed in the application thereof:

1. When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.
2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.
3. When the commission of the act is attended by some mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied.
4. When both mitigating and aggravating circumstances attended the commission of the act, the courts shall reasonably allow them to offset one another in consideration of their number and importance, for the purpose of applying the penalty in accordance with the preceding rules, according to the result of such compensation.

Based on the above provision, the presence of any mitigating or aggravating circumstances must first be determined for the imposition of the proper penalty.

In this case, no aggravating circumstances were alleged in the information. Thus, no aggravating circumstances can be appreciated against the appellant. With regard to the presence of any mitigating circumstances, we find that appellant is entitled to the mitigating circumstance of voluntary confession of guilt.

Article 13 (7) of the Revised Penal Code provides that an accused is entitled to the mitigating circumstance of voluntary confession of guilty if "he had voluntarily confessed his guilt before the court prior to the presentation of evidence by the prosecution." The following requisites must concur: (1) the accused spontaneously confessed his guilt; (2) the confession of guilt was made in open court, that is, before a competent court trying the case; and (3) the confession of guilt was made prior to the presentation of evidence by the prosecution.^[12]

In this case, appellant made his confession of guilt before the presentation of evidence by the prosecution since he pleaded guilty during the arraignment. The appellant also confessed voluntarily and spontaneously despite knowing the serious