

SECOND DIVISION

[G.R. No. 175330, January 12, 2011]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RODOLFO CAPITLE
AND ARTURO NAGARES, APPELLANTS.**

R E S O L U T I O N

CARPIO, J.:

The Case

This is an appeal from the 27 January 2006 Decision^[1] of the Court of Appeals in CA-G.R. CR-HC No. 01479. The Court of Appeals affirmed the 28 April 2000 Decision^[2] of the Regional Trial Court, National Capital Judicial Region, Pasig, Branch 267, in Criminal Case No. 105733, convicting appellants Rodolfo Capitle and Arturo Nagares for the crime of murder.

The Facts

The Court of Appeals summarized the facts of the case as follows:

The historical backdrop shows that at around 7:40 a.m. of August 6, 1993, at Orambo Drive, Orambo, Pasig City, Barangay Chairman Avelino Pagalunan was gunned down by four (4) men who thereafter ran towards Shaw Blvd. The incident was witnessed by Ruiz Constantino and Solomon Molino who were seated six (6) arms length away and conversing on the flower pots planted with bougainvilla lined along Orambo Drive corner St. Jude Street, Orambo, Pasig City. Barangay Chairman Avelino Pagalunan was thereafter brought to Medical City Hospital where he expired due to multiple gunshot wounds in the body, in the neck and in the head. The most fatal wound was the one sustained in the head.

On that same day, at around 10:30 a.m., Solomon Molino, a Barangay Kagawad, gave his statement to the District Central Investigation Branch, Eastern Police District Command relating the incident he saw but failed to identify the assailants.

On September 29, 1993, Arturo Nagares was apprehended by the Pasig Police on account of his conviction in another case for Frustrated Homicide. He was later to be taken custody by the National Bureau of Investigation at its detention center along Taft Avenue where the next day, on September 30, 1993, Ruiz Constantino gave his statement identifying Arturo Nagares y De Leon from the four (4) pictures presented to him as one of the three (3) armed assailants of Barangay Captain Pagalunan on August 6, 1993.

Arturo Nagares was likewise identified from the four (4) pictures shown to another witness, Rodolfo Paat, who claims to be at Orambo Drive corner Shaw Blvd., Pasig City, when he heard several gun shots with people shouting "nagbabarilan, nagbabarilan." Moments later, from the corner of St. Jude St. and Orambo Drive, he saw four (4) men each carrying guns running from Orambo Drive towards Shaw Blvd. and boarded a jeep going to Mandaluyong, Metro Manila.

The third witness to give a statement to the NBI on same day was Solomon Molino who likewise identified Arturo Nagares from the four (4) pictures laid before him.

On October 19, 1993, while under detention at the NBI, Arturo Nagares executed an extrajudicial confession to the killing of Barangay Chairman Avelino Pagalunan before Atty. Orlando V. Dizon, Chief, SOG, NBI. Assisting him in the confession was practicing lawyer, Atty. Esmeralda E. Galang, who was at the NBI following up the implementation of a warrant of arrest in one of the cases she was handling. In Nagares' extrajudicial confession, he implicated Vice Mayor Anching De Guzman as the mastermind, and Rodolfo Capitle a.k.a. Putol, Elymar Santos and a John Doe as his cohorts in the killing of the Barangay Chairman.

On January 21, 1994, witness Solomon Molino executed his third affidavit before the NBI and identified Ramil Marquina in a police line-up as one of those who fired at Pagalunan.

Then again, on March 21, 1994, the same Solomon Molino gave a written statement before the Pasig Police identifying Rodolfo Capitle, who was earlier arrested by the police by virtue of a warrant of arrest issued by Judge Milagros V. Caguioa of the Pasig Court for Frustrated Homicide.

On March 26, 1994, witness Rodolfo Paat executed another statement before the NBI identifying Rodolfo Capitle from the 20 pictures shown him as one of those armed men he saw on August 6, 1993 running from Orambo Drive to Shaw Blvd.

On April 4, 1994, a criminal charge sheet for Murder was filed against Rodolfo Capitle and Arturo Nagares.

On September 29, 1994, the Information was amended to include Ramil Marquina as one of the accused, together with Rodolfo Capitle and Arturo Nagares. The Amended Information reads:

The undersigned 2nd Asst. Provincial Prosecutor accuses RODOLFO CAPITLE, ARTURO NAGARES and RAMIL MARQUINA of the crime of MURDER, committed as follows:

That on or about the 6th day of August 1993 in the Municipality of Pasig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together,

with intent to kill, evident premeditation, treachery, and with abuse of superior strength, did then and there willfully, unlawfully and feloniously attack, assault and shot Brgy. Chairman Avelino Pagalunan on the vital parts of his body, thereby inflicting upon the latter mortal and fatal gunshot wounds which caused his death.

CONTRARY TO LAW.

On April 17, 1997, all three (3) accused were properly arraigned. Assisted by their respective counsels, they entered a "not guilty" plea. After the case was set for pre-trial conference, trial on the merits followed.

During the trial, prosecution witness Ruiz Constantino testified and identified accused Arturo Nagares as one of those he saw shooting the victim, Barangay Chairman Avelino Pagalunan, but could not identify the rest of the assailants. Another witness for the People, Solomon Molino, with whom Constantino was conversing at the time, claimed to have witnessed the shooting incident and even prepared a sketch as to the respective positions of the victim, the assailants and where they were seated. Nevertheless, he found it hard to identify the gun wielders.

The third eyewitness, Rodolfo Paat, who claims that during the incident he was at the end of the tricycle line along Orambo Drive between Shaw Blvd. and St. Peter St. when he heard gunshots coming from Orambo Drive corner St. Jude St. about 80 meters away from where he was. Upon hearing the gunshots, people in the vicinity scampered for cover but he stayed put and saw four (4) persons with guns emerged from the smoke running towards Shaw Blvd. He later on identified two (2) of them in open court as accused Arturo Nagares and Rodolfo Capitle.

Accused Arturo Nagares offered alibi as a defense. He was sleeping at the house of his sister Gaudelia Mercado at 92 F. Asedillo St., Bagong Katipunan, Pasig City, as he was suffering from fever due to boil ("pigsá") at the right leg, he said. This testimony found corroboration from his sister, Gaudelia, and even narrated she accompanied Arturo to the Rizal Medical Center where he was treated and given medication by a certain Dr. Ong. As to the extrajudicial confession, Nagares claimed that he was violated, forced, coerced and tortured into admitting the crime, and to sign the already prepared extrajudicial confession.

For his part, accused Rodolfo Capitle as well put forth the defense of alibi insisting that on the day of the shooting, he was at their house at Bambang, Pasig, with his wife and children cleaning and feeding the hogs. Afterwards, he continued, he took a bath and rested for the rest of the day. His wife substantiated his testimony. Rodolfo went on saying that on March 18, 1994, he was arrested and detained at the Pasig Police Headquarters for another crime. On March 23, 1994, the NBI took custody of him at the NBI Headquarters along Taft Avenue. While at the NBI Headquarters, he complained of having been tortured by placing a plastic bag on his face, boxed on the chest and abdomen, electrocuted and was forced to admit to the killing of the Barangay Captain but was

able to refuse, nonetheless.

x x x x^[3]

The Ruling of the Trial Court

After trial, the trial court rendered a Decision dated 28 April 2000 finding appellants guilty as charged, while acquitting Ramil Marquina. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the Court finds accused ARTURO NAGARES and RODOLFO CAPITLE GUILTY beyond reasonable doubt of the felony of MURDER defined and penalized under Article 248 of the Revised Penal Code as amended and each accused is hereby sentenced to suffer the penalty of reclusion perpetua. Upon the other hand, considering that the Court failed to prove the guilt of the accused RAMIL MARQUINA beyond reasonable doubt, the aforesaid accused is hereby ACQUITTED of the crime charged.

Accordingly, the Court orders accused Nagares and Capitle to pay jointly in solidum the widow of the victim, Merlie Pagalunan, the following amounts, to wit:

1. PhP50,000.00 as indemnity;
2. PhP 100,000.00 as moral damages;
3. PhP 50,000.00 as exemplary damages;
4. PhP 50,000.00 representing actual and compensatory damages;
5. PhP 30,000.00 as attorney's fees;
6. And costs.

The Jail Warden of the Pasig City Jail where accused Rodolfo Capitle is presently detained during the pendency of this case, is accordingly ordered to immediately transfer the person of the aforesaid accused to the National Bilibid Prisons (NBP) of the Bureau of Corrections in Muntinlupa City, Metro Manila, as he is now considered an insular prisoner. Let therefore the corresponding Order/s of Commitment (Mittimus) be issued pursuant to Circular No. 4-92-A, dated April 20, 1992 and Circular No. 66-97 dated October 14, 1997 of the Office of the Court Administrator of the Supreme Court.

In the meantime, the Director of the National Bilibid Prisons (NBP) where accused Arturo Nagares is already serving sentence for another crime, is hereby informed of the latter's conviction in the present case for his appropriate action and guidance.

Costs de officio.

SO ORDERED.^[4]

In convicting appellants, the trial court found that two out of three eyewitnesses, in the persons of Ruiz Constantino and Rodolfo Paat, positively identified appellants as among the perpetrators of the crime. The trial court discarded appellants' alibis and denial as such cannot prevail over the positive identification made by the prosecution witnesses. The trial court likewise rejected appellants' claims of "frame-up" and torture as unsubstantiated.

The trial court found no violation of appellant Nagares' constitutional rights insofar as his confession is concerned. Nagares' *Sinumpaang Salaysay* is presumed to be voluntary and Nagares failed to overthrow such presumption. Further, there was sufficient evidence that Nagares was assisted by an independent and effective counsel during the custodial investigation, belying Nagares' allegations.

The Ruling of the Court of Appeals

On appeal, the Court of Appeals affirmed the trial court's decision, disposing of the case as follows:

IN VIEW OF ALL THE FOREGOING, finding no reversible error in the appealed judgment, the same is hereby AFFIRMED in toto. Costs de officio.

SO ORDERED. ^[5]

In affirming the conviction of appellants, the Court of Appeals found the extrajudicial confession executed by Nagares admissible since it was (1) voluntary; (2) made with the assistance of a competent and independent counsel; (3) express; and (4) in writing. The Court of Appeals pointed out that the specific information stated in the impugned confession "not only categorically detailed [Nagares'] participation in the crime, it likewise show[ed] badges and traits of voluntariness of the confession."

The Court of Appeals concurred with the trial court that Nagares was duly assisted by an independent counsel during the custodial investigation. According to the Court of Appeals, "the photographs during the custodial investigation, and execution of the 6-page 70 questions and answers extrajudicial confession are at war against the presence of uncivilized practice of extracting confession by coercion."

As regards Capitle, the Court of Appeals held that "an extrajudicial confession is binding only on the person making it (Nagares) and is not admissible against his co-accused (Capitle)." Hence, there was no direct evidence linking Capitle to the crime. Nevertheless, the Court of Appeals found sufficient circumstantial evidence warranting Capitle's conviction for the crime charged.

The Issues

Appellants raise the following issues: