

FIRST DIVISION

[G.R. No. 113684, January 25, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARMANDO GALLARDO Y GANDER, ALFREDO COLUMN Y CORREA,
AND JESSIE MICATE Y ORTEZA, [*] ACCUSED-APPELLANTS.**

D E C I S I O N

PARDO, J.:

The Constitution enumerates the basic rights of a person under investigation.

"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."^[1]

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The case before the Court is an appeal by accused-appellants from the decision^[2] of the trial court finding them guilty of murder for the treacherous killing of Edmundo Orizal and sentencing each of them to *reclusion perpetua* and to pay in solidum the heirs of Edmundo Orizal in the sum of P50,000.00 as indemnity for death and P150,000.00 as moral damages.

On November 7, 1991, on the basis of the sworn confessions of the accused, the Provincial Prosecutor of Cagayan filed with the Regional Trial Court, Tuguegarao, Cagayan an information charging the accused with murder, committed as follows:

"That on or about July 28, 1991, in the municipality of Tuguegarao, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Armando Gallardo y Gander, Alfredo Columna y Correa and Jessie Micate, armed with guns, confederating and conspiring together and helping one another with intent to kill, with evident premeditation and with treachery, did then and there willfully, unlawfully and feloniously attack, assault and shoot one Edmundo Orizal, inflicting upon him several gunshot wounds on the different parts of his body which caused his death.

"Contrary to law."

"Tuguegarao, Cagayan, November 7, 1991.

On December 2, 1991, all three accused entered a plea of not guilty.[4] Trial ensued.

The prosecution's evidence established the following facts:

On July 28, 1991, the lifeless body of Edmundo Orizal was found in the rest house of Ronnie Balao in Balzain, Tuguegarao, Cagayan. In an autopsy performed by Dr. Edmundo Borja, Tuguegarao Municipal Health Officer, the victim was found to have sustained seven (7) gunshot wounds in the chest, abdomen, back, left and right thighs, and two (2) grazing wounds on the left arm and back.[5]

Investigation by the Tuguegarao police station identified the suspects in the murder of Edmundo Orizal as Armando Gallardo y Gander, Alfredo Columna y Correa, and Jessie Micate y Orteza. The police received information that the suspects were detained at the Camalaniugan Police Station because of other criminal charges. So elements of the Tuguegarao police went to the Camalaniugan Police Station in August 1991 to fetch the suspects. Only Armando Gallardo and Alfredo Columna alias Fermin were in the custody of the Camalaniugan Police Station.

The two suspects Armando Gallardo and Alfredo Columna were brought to the Tuguegarao Police Department. On August 18, 1991, they were investigated by Police Investigator SPO4 Isidro Marcos, and they gave statements admitting that they, together with Jessie Micate, killed Edmundo Orizal.

During the investigation, the dialect used was Ilocano, the native tongue of the accused, and during the taking of the statements, Atty. Rolando Velasco assisted them. Judge Vilma Pauig was present. She administered the oath on the jurat of the statements. Accused-appellants signed their statements admitting the killing of Edmundo Orizal.

According to accused-appellants, they planned and executed the killing of Edmundo Orizal, as follows:

At about 10:00 in the morning of July 26, 1991, Pat. Dennis Molina, accused-appellants Armando Gallardo and Alfredo Columna, together with Jessie Micate and Asoy (Nelson) Hidalgo, met at the house of Alfredo Columna in Ziminilla (Camalaniugan, Cagayan). Pat. Molina conveyed to the group the desire of Congressman Domingo Tuzon that Edmundo Orizal be killed because the latter was planning to ambush him and grab his land. Edmundo Orizal was a strong campaigner and a bodyguard of retired Gen. Prospero Olivas, who was running for mayor of Camalaniugan (against the congressman's re-electionist wife). Pat. Molina told the group that if they accepted the job and succeeded in their mission, Congressman Tuzon would work for their acquittal in all their criminal cases, and would give cash rewards.

The accused-appellants accepted the job and the following day, on July 27, 1991, they, together with Jessie Micate, Asoy Hidalgo and Pat. Molina, set out to accomplish their mission. Pat. Molina accompanied them to Dugo, Camalaniugan at Where Else Beauty Salon where Pat. Molina showed them their weapons: a .38 cal.

and .45 cal. handguns and a folded carbine, placed inside a box.

At around 2:00 in the afternoon of the same day, in the house of Dadoy Micate, Pat. Molina gave the .38 cal. revolver to Armando Gallardo, the .45 cal. pistol to Alfredo Columna, and the folded carbine to Jessie Micate. Then, Pat. Molina instructed the three accused to look for Edmundo Orizal and kill him.

The three boarded a tricycle and proceeded to Edmundo Orizals' boarding house at Caritan, Tuguegarao, Cagayan. Edmundo was not there. He was at that time in the house of Aping in Lecaros Street, Centro, Tuguegarao. The three went to that place. At the place of Aping, accused Gallardo engaged Edmundo in a conversation while all of them drank San Miguel beer. In the course of their conversation, and probably to get the trust of Edmundo Orizal, accused Gallardo told him that he had already killed Inyong Orteza, whom Edmundo Orizal wanted dead.

At around 5:00 p. m., the group moved over to the rest house of Ronnie Balao in Balzain, Tuguegarao. Edmundo ordered Armando Gallardo to get his M-14 armalite rifle from Ronnie Balao. However, Ronnie Balao did not give the firearm, but went with Armando to the rest house to talk to Edmundo. After talking to Edmundo and Armando, Ronnie Balao went home.

Meanwhile, Edmundo Orizal, the two accused-appellants and Jessie Micate were conversing. Edmundo was convincing accused-appellants and Jessie Micate to join him as bodyguards of Gen. Olivas during the election campaign. At this point, Jessie Micate leveled his carbine at Edmundo and successively fired at him. Alfredo Columna drew his .45 cal. pistol and shot Edmundo Orizal five times. This was followed by Armando Gallardo who shot Edmundo once with his .38 cal. revolver. The three accused fled, and went to the house of Dadoy Micate in Caggay (Tuguegarao, Cagayan), where Pat. Molina was waiting for them. They informed Pat. Molina that the mission was accomplished.

Early the next morning, July 28, 1991, the three accused and Pat. Molina boarded a Manny Trans bus and proceeded to Camalaniugan. They stopped at Dugo, Camalaniugan and proceeded to the house of Congressman Tuzon to report the killing.

Congressman Tuzon was out of his house attending the town fiesta of Buguey (Cagayan). When he arrived, Pat. Molina informed him that Edmundo Orizal is dead. Congressman Tuzon was very happy and promised them that he would work for their acquittal in their pending cases and after confirming the death of Orizal he would give them their cash rewards.^[6]

Nelson Hidalgo, a friend of Manuel Columna, Jr., testified that on July 26, 1991 at around 4:30 in the afternoon at the house of Manuel Columna, Jr., he was asked by the accused to join them in their mission to kill Edmundo Orizal.

In that meeting, Nelson Hidalgo resolved to join the group, but while on his way home from the meeting, he met his bosom friend Reynald Micate. He told the latter about their plan to kill Edmundo Orizal. Reynald Micate advised him not to participate in the killing for it would just add to his other criminal cases. Nelson Hidalgo heeded the advice of his bosom friend. Consequently, realizing that because of his knowledge of the plan to kill Edmundo Orizal, he would be a target for

elimination so that the plan would not be revealed to anyone, he left Camalaniugan, and went to Buguey, then Aparri and finally, to Manila. It was only after three months that he returned to Camalaniugan and learned that Edmundo Orizal was killed.

On August 18, 1993, accused on their part filed with the trial court a demurrer to evidence, arguing that the prosecution failed to establish that the signed statements of the accused were procured in violation of Article III Section 12 (1) of the Constitution. On September 10, 1993, the trial court denied the demurrer and stated that the court would want to know controverting evidence that the defense may give to intelligently decide the issues of the case.

Accused Armando Gallardo and Alfredo Columna testified in their defense. They gave a common version. In the words of the trial court, here is what they alleged:

"On August 18, 1991, elements of the Tuguegarao Police Station went to Camalaniugan to fetch accused Armando Gallardo and Alfredo Columna who were detained at the Camalaniugan Municipal Jail in connection with other criminal cases. These two accused were brought to the Tuguegarao Police Station to be questioned on the killing of Edmundo Orizal.

"Arriving in Tuguegarao the same day, Investigator Isidro Marco investigated said accused and took their statements at the Tuguegarao Police Station. The investigator, however, did not inform them of their constitutional rights.

"After the respective statements had been typewritten, investigator Marcos neither read to nor allowed them to read the contents of their alleged statements. The investigator just told them to sign their so-called statements. Accused Gallardo signed the confessional statement because he was harmed by Marcos while accused Alfredo Columna said that he signed said document because he was afraid he might be harmed."^[7]

On November 29, 1993, the trial court rendered decision finding accused Armando Gallardo y Gander and Alfredo Columna y Correa guilty beyond reasonable doubt of murder qualified by evident premeditation and aggravated by treachery and sentencing each of them to *reclusion perpetua* and to pay *in solidum* the heirs of Edmundo Orizal P50,000.00 as the mandatory indemnity for death and P150,000.00 as moral damages. The court acquitted accused Jessie Micate y Ortega for lack of evidence.^[8]

Hence, this appeal.

Accused-appellants Armando Gallardo y Gander and Alfredo Columna y Correa impute the following errors to the trial court:

1. In admitting their extra-judicial confessions in evidence against them; and
2. In finding that their guilt was proved beyond reasonable doubt.^[9]

The appeal has no merit. The extra-judicial confessions of the accused were given after they were completely and clearly apprised of their Constitutional rights. A