

SECOND DIVISION

[G.R. No. 122142, May 17, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JIMMY OBRERO Y CORLA, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision^[1] of the Regional Trial Court, Branch 12, Manila, finding accused-appellant Jimmy Obrero y Corla guilty beyond reasonable doubt of the crime of robbery with homicide and sentencing him to suffer the penalty of *reclusion perpetua* with all the accessory penalties, and to indemnify the heirs of the victims Nena Berjuega and Remedios Hitta in the amount of P50,000.00 each and to pay the sum of P4,000.00 representing the amount of money stolen.

The information alleged --

That on or about August 11, 1989, in the City of Manila, Philippines, the said accused conspiring and confederating with one, whose true name, identity and present whereabouts are still unknown and mutually helping one another, did then and there willfully, unlawfully and feloniously with intent of gain and by means of force, violence and intimidation, to wit: the said accused take, rob and carry away the amount of P4,000.00 cash belonging to Antonio Cabrera against his will, to the damage and prejudice of said owner in the aforesaid amount of P4,000.00 Philippine Currency; that on the occasion thereof and by reason of the aforesaid robbery, the said accused willfully, unlawfully and feloniously, with intent to kill, attacked, assaulted and used personal violence upon the person of NENA BERJUEGA and REMEDIOS HITTA, by stabbing them to death, thereby inflicting upon the said victims mortal stab wounds which were the direct and immediate cause of their death thereafter.

Contrary to law.

Only accused-appellant had been apprehended. His co-accused Ronnie Liwanag has been at large. When arraigned, accused-appellant pleaded not guilty, whereupon, trial ensued.

The prosecution presented three witnesses, namely, Pat. Benjamin Ines, Dr. Marcial G. Cenido, and Atty. Bienvenido De los Reyes. Pat. Ines of the Western Police District investigated the robbery with homicide. The gist of his testimony is to the following effect:

Accused-appellant was a delivery boy employed by Angie Cabosas whose business was selling chickens to customers. Cabosas's business was located in Blumentritt Street, Sta. Cruz, Manila. CODES

In the morning of August 11, 1989, accused-appellant was asked to deliver dressed chickens to Emma Cabrera, a regular customer at Room 4-D Gatlin Building, 1344 C.M. Recto Avenue in Sta. Cruz, Manila. At about 10:20 a.m., accused-appellant came back and turned over to his employer the amount of P2,000.00. Pat. Ines testified that after receiving report of the killing, he and Pfc. Ricardo Sibal went to see Angie Cabosas from which they learned that the latter has received a call from Emma Cabrera informing Angie that her house had been robbed and her two maids killed. They were told that accused-appellant had gone to Pangasinan allegedly to attend the burial of his grandfather. Pat. Ines said he and P/Lt. Villamor Valdez, Pfc. Sibal, Pfc. Edmundo Cabal and Pat. Renato Gutierrez went to Rosales, Pangasinan but failed to find accused-appellant. They were told by the sister of accused-appellant, Merly Asuncion, that accused-appellant had gone to La Union. According to Pat. Ines, accused-appellant confided to his sister that he had allegedly done something wrong in Manila.

Pat. Ines identified two sworn statements, both executed on August 11, 1989, one of which, he said, had been executed by Helen N. Moral, a househelp of Emma Cabrera, and the other by Angie C. De los Reyes. In her statement marked Exhibit I, Moral said that upon arriving in the house at about 12:20 p.m. that day, she and her employer's nephew, Carlos Emerson, found the bodies of the victims sprawled on the floor. She told Pat. Ines that accused-appellant used to deliver pork and dressed chicken to their place.

On the other hand, in her sworn statement given on August 14, 1989 and marked as Exhibit L, Anita C. De los Reyes stated that on August 11, 1989, she had seen accused-appellant and Ronnie Liwanag, their hands covered with blood, coming out of the Gatlin Building on C.M. Recto Avenue, Sta. Cruz, Manila.^[2]

Pat. Ines testified that on March 3, 1990, he and his group received information from Pat. Alfredo Que of the Urdaneta Police Station that accused-appellant was in Cataban, Urdaneta, Pangasinan. Accordingly, they went to the place indicated and the next day, March 4, 1990, they were able to apprehend accused-appellant whom they brought to Manila. Pat. Ines said accused-appellant was positively identified by Anita De los Reyes as one of those whom she saw running down the stairs of the Gatlin Building on C.M. Recto Avenue, Sta. Cruz, Manila with blood in his hands.^[3]

Pat. Ines testified that on that same day, March 4, 1990, accused-appellant gave a confession (Exh. O) in writing with the assistance of counsel, Atty. Bienvenido De los Reyes, in which he admitted participation in the killing of Nena Berjuega and Remedios Hitta. Pat. Ines himself executed an affidavit (Exh. P) stating the circumstances of accused-appellant's arrest. He said accused-appellant refused to sign the booking and information sheet.^[4]

Accused-appellant's extrajudicial confession was presented in evidence as Exhibit O.^[5] In it, accused-appellant said he started working for Angie Cabosas in the latter's business on Blumentritt Street, Manila three or four months before the incident. Cabosas and accused-appellant's sister Merly Asuncion, had been neighbors in Rosales, Pangasinan. Accused-appellant's work was to deliver dressed chicken. Emma Cabrera was a regular customer to whom he made deliveries in the morning. On August 10, 1989, his fellow employee, Ronnie Liwanag, proposed that they rob

Emma in order to be able to go to La Union to visit his family. On August 11, 1989, after learning that only two helpers were then at the residence of Emma Cabrera, accused-appellant and Ronnie decided to pull the heist. Ronnie covered the mouth of one Nena Berjuega to prevent her from shouting but, as she tried to run away, Ronnie stabbed and killed her. Ronnie then gave the knife to accused-appellant who stabbed the younger maid Remedios Hitta from which she died. Thereafter, the two proceeded to Blumentritt Street and divided the money Ronnie had taken from the house of Emma Cabrera. From Blumentritt Street, Ronnie went to La Union, while accused-appellant proceeded to Pangasinan. The extrajudicial confession is in Tagalog and signed by accused-appellant in the presence of Atty. De los Reyes.

The prosecution next presented Atty. Bienvenido De los Reyes, a PC Captain of the WPD Headquarters, U.N. Avenue, Manila. He said that on March 4, 1990, he happened to be at Station 7 of the WPD, representing a client accused of illegal recruitment. He was asked by Lt. Generoso Javier of the WPD Homicide Section to assist accused-executing an extrajudicial confession. According to Atty. De los Reyes, he apprised accused-appellant of his constitutional rights, explaining to him that any statement made by him could be used against him in court, but accused-appellant said he was willing to give a statement as in fact he did, confessing to the commission of the crime of robbery with homicide.^[6]

The other prosecution witness was Dr. Marcial G. Cenido, medico-legal officer who conducted autopsies on August 11, 1989 on the victims, Nena Berjuega and Remedios Hitta. After proper identification (Exh. D) by the victim's employer, Antonio Cabrera, Dr. Cenido prepared a postmortem report (Exh. A) that Nena Berjuega suffered 16 stab wounds from which she died. olanski

Dr. Cenido testified that the victim sustained 16 stab wounds which affected her vital organs, specifically the right and left lungs and the heart, causing her death. Six of these wounds were fatal so that she could not survive despite immediate medical attention. He concluded that the assailant and the victim could be facing each other when wounds nos. 1, 3 and 5 (Exhs. B-1, B-2, and B-4, respectively) were inflicted and that the assailant may have been on the left lateral side of the victim when he inflicted wound no. 8 (Exh. B-5) and at the victim's back when assailant inflicted wound no. 16 (Exh. B-6). He said that there could be one or more assailant who inflicted these wounds by using a single bladed weapon.^[7]

Dr. Cenido likewise prepared a postmortem report (Exh. F) that Remedios Hitta suffered 12 stab wounds from which she died.

Dr. Cenido testified that the victim sustained 12 stab wounds with seven fatal ones that caused her death. The fatal wounds damaged her left and right lungs and the heart that she would not survive despite immediate medical attention. He observed that in wounds nos. 1, 2 and 3 (Exhs. G-1, G-2, and G-3, respectively), the assailant and the victim could be facing each other, while in wounds nos. 4, 9 and 11 (Exhs. G-4, G-6, and G-7, respectively), the assailant could have been at the back of the victim. He said that there could be one or more assailant who inflicted these wounds using a single bladed weapon.^[8]

Dr. Cenido prepared the certificates of death of the victims, Nena Berjuega and Remedios Hitta (Exhs. C and H). He stated that the weapon used on both victims

could have been the same and that both victims sustained multiple stab wounds.^[9]

With the testimonies of Pat. Ines, Atty. De los Reyes, and Dr. Cenido and the extrajudicial confession (Exh. O), as well as the sworn statements of Helen Moral (Exh. I) and Anita De los Reyes (Exh. L), the prosecution rested its case.

The defense presented, as its sole witness, accused-appellant Jimmy Obrero y Corla. Accused-appellant testified that he had worked for Angie Cabosas in Blumentritt Street for four (4) months before the incident in this case. Angie was a neighbor of his sister, Merly Asuncion, in Pangasinan. Angie's business was selling dressed chickens. Accused-appellant said that at about 9:00 a.m. on August 11, 1989, he delivered dressed chickens to Emma Cabrera's residence on C.M. Recto Avenue. He came back from his errand at around 10:20 a.m. and remitted the amount of P2,000.00 which had been paid to him. He denied participation in the commission of the crime and claimed that he was arrested without a warrant in Pangasinan. He claimed that, after being informed of the charges against him, he was beaten up and detained for a week and made to execute an extrajudicial confession. He denied having known or seen Atty. De los Reyes before and stated that he did not understand the contents of the extrajudicial confession which he signed because he does not know how to read.^[10]

On August 31, 1995, the trial court rendered its decision, the dispositive portion of which reads:

WHEREFORE, this Court finds accused JIMMY OBRERO Y CORLA, guilty beyond reasonable doubt of the crime of Robbery with Homicide, defined and punishable under Article 294(a) of the Revised Penal Code, and he is hereby sentenced to suffer the penalty of reclusion perpetua, with all the accessory penalties provided by law. He is further condemned to pay the heirs of the victims, Remedios Hitta and Nena Berjuega the sum of FIFTY THOUSAND (P50,000.00) PESOS each as civil indemnity for their death and the additional sum of P4,000.00 as the amount of money taken, without subsidiary imprisonment in case of insolvency.

His immediate transfer to the National Bilibid Prisons, Muntinlupa is hereby ordered.

SO ORDERED.

Hence, this instant appeal. Accused-appellant assails the validity of this extrajudicial confession which forms the basis of his conviction for the crime of robbery with homicide. He claims that Atty. De los Reyes, who assisted him in executing his confession, was not the counsel of his own choice. That was the reason, he said, he refused to sign the booking and information sheet. He said he signed the extrajudicial confession five times as a sign that it was involuntarily executed by him.

Art. III, §12 of the Constitution provides in pertinent parts:

(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.

(2) No torture, force, violence, threat, intimidation or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.

(3) Any confession or admission obtained in violation of this or Section 17 shall be inadmissible in evidence against him.

There are two kinds of involuntary or coerced confessions treated in this constitutional provision: (1) those which are the product of third degree methods such as torture, force, violence, threat, intimidation, which are dealt with in paragraph 2 of §12, and (2) those which are given without the benefit of Miranda warnings, which are the subject of paragraph 1 of the same §12.

Accused-appellant claims that his confession was obtained by force and threat. Aside from this bare assertion, he has shown no proof of the use of force and violence on him. He did not seek medical treatment nor even a physical examination. His allegation that the fact that he was made to sign the confession five times is proof that he refused to sign it.

To begin with, what accused-appellant claims he was made to sign five times is not the same confession (Exh. O) but different parts thereof. He signed his name on page 1 to acknowledge that he had been given the Miranda warnings. (Exh. O-3) Then, he signed again as proof that after being given the Miranda warnings he agreed to give a statement. (Exh. O-6) Next, he signed again his name at the end of page 2 to authenticate that page as part of his confession. (Exh. O-7) Fourth, he signed the third page at the end of his confession. (Exh. O-10) Fifth, he signed his name again on the third page in which the jurat appears. (unmarked, [p. 3] of Exh. O)

We discern no sign that the confession was involuntarily executed from the fact that it was signed by accused-appellant five times.

Nor can it be inferred that the confession was involuntarily executed from the fact that accused-appellant refused to sign the booking and information sheet. For if he were simply forced to execute the extrajudicial confession and sign it for five times, there is no reason the police was not able to make him sign the said sheet as well. The inference rather was that no force was used to make accused-appellant execute the confession, otherwise, he could also have been forced to sign the booking and information sheet.

Extrajudicial confessions are presumed voluntary, and, in the absence of conclusive evidence showing the declarant's consent in executing the same has been vitiated, such confession will be sustained.

Moreover, the confession contains details that only the perpetrator of the crime could have given. No one except accused-appellant could have stated that it was he who killed the younger maid of Emma Cabrera (Remedios Hitta), that he committed