



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated March 24, 2021 which reads as follows:

“G.R. No. 224586 – (PEOPLE OF THE PHILIPPINES, plaintiff-appellee v. DIONESIO JAMO, JR., alias “Bayot”, accused-appellant). – This resolves the appeal¹ filed by accused-appellant Dionesio Jamo, Jr., alias “Bayot” (Dionesio) against the February 12, 2016 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01214-MIN, which affirmed the June 27, 2013 Decision³ in Criminal Case No. 728, rendered by the Regional Trial Court (RTC) of Calamba, Misamis Occidental, Branch 36 convicting him of murder.

The Antecedents

In an Information⁴ dated June 10, 2009, Dionesio was indicted for murder defined and penalized under Article 248 of the Revised Penal Code and committed as follows:

That on February 26, 2009, at around 10:00 o'clock in the morning, more or less, in Purok 1, Brgy. Magcamiguing, municipality of Calamba, province of Misamis Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill and with cruelty did then and there willfully, unlawfully and feloniously, attack, assault and hack LEONCIA L. ELNAS an old woman using an arrow and a bolo and by taking advantage of superior strength hitting her on the different parts of her body, thereby inflicting upon the latter mortal wounds which caused her instantaneous death.

- over – eighteen (18) pages ...

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¹ CA rollo, pp. 97-98

² Rollo, pp. 3-12; penned by Associate Justice Ruben Reynaldo G. Roxas, with Associate Justices Edgardo T. Lloren and Rafael Antonio M. Santos, concurring.

³ CA rollo, pp. 52-62; rendered by Judge Silvestre D. Orejana, Jr.

⁴ Id. at 52.

CONTRARY TO LAW, with the qualifying circumstances of cruelty, taking advantage of superior strength and disregard of sex and age.⁵

During his arraignment, Dionesio pleaded not guilty. Then, pre-trial ensued, followed by trial on the merits.⁶

The antecedent facts reveal that at around 11:00 o'clock in the morning of February 26, 2009, Agnes Mila (Agnes) was watching television with her sister Landeliza Mila (Landeliza) at their home in Purok 1, Magcamiguing, Calamba, Misamis Occidental. Suddenly, their dogs started barking loudly. Landeliza went outside to check on the dogs. When Agnes followed Landeliza, she was surprised to see Dionesio armed with a bolo and spear, thrusting his weapons at Landeliza and accusing their family of stealing his chicken.⁷

Agnes tried to pacify Dionesio. However, her efforts proved futile. He repeatedly accused them of stealing his chicken and angrily stated that he heard chopping sounds coming from their kitchen the night before. In an attempt to appease Dionesio, Agnes led him to their kitchen to show him their viand the previous night. However, Dionesio adamantly insisted that they stole his chicken. At this point, Agnes noticed that Dionesio's fingers and bolo were covered with blood stains. His face was likewise very pale and he kept moving his bolo as if attempting to stab. Then, he angrily left, still piqued about his lost chicken.⁸

Distraught, Agnes immediately sent a text message to her mother Mercuria Elnas Mila to relate what had happened. Agnes wanted to immediately report the matter to the police but could not leave Landeliza, who was still trembling in fear. Helplessly, they waited for their grandmother Leoncia Elnas (Leoncia) who was out gathering wood.⁹

Seven minutes after Dionesio left, Agnes heard their neighbor Nang Trining screaming hysterically that her grandmother Leoncia was lying dead in her (Nang Trining's) backyard. Hurriedly, Agnes ran to Nang Trining's backyard and saw her grandmother sprawled on the ground with multiple hack wounds.¹⁰

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⁵ Id.

⁶ Id.

⁷ Id. at 53.

⁸ Id.

⁹ Id.

¹⁰ Id.

On even date, the police officers, led by Senior Police Officer 3 Reylando Tan (SPO3 Tan) together with the Municipal Health Officer of Calamba, Misamis Occidental Dr. Rodolfo Mario Borbon (Dr. Borbon) arrived at the crime scene. Dr. Borbon performed a post mortem examination of Leoncia's body. He concluded that Leoncia died of hypovolemic shock due to severe hemorrhage, secondary to multiple hacking wounds. He further opined that the most fatal wound was the one on the lateral side of her neck, which surrounded about one half of the neck.¹¹

Meanwhile, the police officers conducted an investigation and discovered from the report of Agnes and Landeliza that Dionesio barged into their house armed with a bloodied bolo. From this information, they commenced a hot pursuit operation on Dionesio. Unfortunately, Dionesio had already fled.¹²

On March 1, 2009, the police received a report from Antonio Jumampang (Jumampang) that Dionesio had surrendered to him. Acting on the information, the police proceeded Jumampang's house where they found Dionesio with his mother. They interviewed Dionesio and asked him why he surrendered and what his offense was. Purportedly, Dionesio confessed to killing Leoncia. Thereafter, Dionesio led the police to a bamboo grove at the back of MOELCI-1 where he hid the bolo and spear he used to kill Leoncia. He handed the said weapons to SPO1 Arceno. After which, the police placed Dionesio under arrest and took him to the police station where he signed a certification of voluntary surrender.¹³

On the other hand, Dionesio denied the charges leveled against him. He claimed that at 7:00 o'clock in the morning of February 26, 2009, he went to their farm at Dapacan, Calamba, Misamis Occidental. He stayed there for the entire day. He related that it took him two days to clean the farm and he returned to Purok 1 on February 28, 2009.¹⁴

Dionesio refuted the claim that he confessed to the police. He disclosed that he went to Jumampang's residence because his mother informed him that he was a suspect in a killing incident, and he wanted to clear his name. He further narrated that while at

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¹¹ Id.
¹² Id. at 54.
¹³ Id.
¹⁴ Id.

Jumampang's house the police merely asked him details about his stolen chicken. He maintained that he had nothing to do with Leoncia's death.¹⁵

Ruling of the RTC

On June 27, 2013, the RTC rendered a Decision¹⁶ convicting Dionesio of murder qualified by cruelty and use of superior strength.¹⁷ The RTC held that Dionesio's extrajudicial confession was made prior to the custodial investigation, and is thus, admissible in evidence.¹⁸ The RTC further noted that Dionesio voluntarily surrendered to the police officers as evidenced by the Certification dated March 3, 2009. Furthermore, the RTC declared that Dionesio himself voluntarily led the police operatives to the place where he hid the murder weapon. In fact, said weapon would not have been discovered if not for Dionesio's own admission.¹⁹

Moreover, the RTC opined that there is more than sufficient evidence to prove Dionesio's guilt. Agnes saw him carrying a blood stained bolo and spear. The bolo was presented in court and identified by Agnes as the same one she saw in the hands of Dionesio just a few minutes after Leoncia was killed. Dionesio's hands were likewise stained with blood, and Agnes heard him deliriously murmuring that their family was responsible for killing his chicken. In addition, the medico legal report explicitly stated that the wounds suffered by Leoncia came from a bladed weapon such as a bolo.²⁰

The RTC disposed of the case as follows:

WHEREFORE, premises considered, this court finds accused DIONESIO JAMO JR, *alias* Bayot, guilty beyond reasonable doubt of murder punishable under Article 248 of the Revised Penal Code and sentences him to an imprisonment of reclusion perpetua without eligibility for parole. In addition, accused is ordered to pay the heirs of the victim PhP75,000.00 as civil liability, PhP75,000.00 as moral damages and PhP25,000.00 as exemplary damages.

SO ORDERED.²¹

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¹⁵ Id.

¹⁶ Id. at 52-62; rendered by Judge Silvestre D. Orejana, Jr.

¹⁷ Id. at 62.

¹⁸ Id. at 60.

¹⁹ Id. at 59.

²⁰ Id. at 61.

²¹ Id. at 62.

Aggrieved, Dionesio filed a Notice of Appeal. In his Appellant's Brief,²² he essentially argued that his extrajudicial confession was not admissible as it was obtained in violation of his constitutional rights, and that the prosecution failed to present direct evidence to prove his guilt.

Ruling of the CA

On February 12, 2016, the CA rendered a Decision²³ affirming the conviction meted by the RTC. Initially, the CA lamented that Dionesio's extrajudicial confession is inadmissible in evidence as he was not informed of his rights to remain silent and to have a competent and independent counsel. Nonetheless, the CA ratiocinated that Dionesio's guilt was proven beyond reasonable doubt through circumstantial evidence that was elicited through the credible testimonies of the prosecution witnesses.²⁴

The dispositive portion of the CA Decision reads:

All told, we find no reversible error in the assailed RTC decision which would warrant the reversal thereof.

Accordingly, the decision dated June 27, 2013 of the Regional Trial Court, Branch 36 in Calamba, Misamis Occidental in Criminal Case No. 728 is hereby AFFIRMED in toto.

SO ORDERED.²⁵

Dissatisfied with the ruling, Dionesio filed a Notice of Appeal with the CA.²⁶

Both parties filed separate Manifestations²⁷ stating that they are adopting the Briefs they filed before the CA in lieu of their Supplemental Briefs before this Court.

Issues

Seeking his exoneration from the charge, Dionesio bewails that his purported extrajudicial confession is inadmissible. He denies voluntarily surrendering to the police officers or to Jumampang. He

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²² Id. at 41-51.

²³ *Rollo*, pp. 3-12.

²⁴ Id. at 9.

²⁵ Id. at 9-10.

²⁶ *CA rollo*, pp. 97-98.

²⁷ *Rollo*, pp. 20-21; 27-28.

clarifies that he merely went to Jumampang's house to clear his name. He further argues that even assuming that he confessed, such confession is inadmissible as it was taken under custodial investigation in violation of his constitutional rights to remain silent and have a competent and independent counsel.²⁸

Furthermore, Dionesio asserts that the prosecution failed to prove his guilt beyond reasonable doubt.²⁹ He points out that there was no direct evidence of the alleged killing through an eyewitness account. He laments that the circumstances considered by the RTC are weak, trivial and unsubstantial. Worse, the strongest evidence the prosecution presented was his alleged extrajudicial confession, which is inadmissible.³⁰

On the other hand, the People, through the Office of the Solicitor General (OSG) counters that Dionesio was not yet under custodial investigation when he confessed to Jumampang and SPO3 Tan that he killed Leoncia.³¹ The OSG avers that he voluntarily owned up to the crime and even accompanied the police officers to the place where he hid the bolo and spear he used.³²

Likewise, the OSG argues that in addition to Dionesio's confession, all the circumstances clearly point to his guilt. Agnes saw him in a fit of rage with blood on his fingers and bolo. He also adamantly accused her family of stealing his chicken. More telling, seven minutes after leaving Agnes's home, Leoncia was found dead at the neighbor's backyard.³³ The OSG propounds that the trial court's evaluation of the credibility of the witnesses is entitled to the highest respect, absent a showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that would affect the results of the case.³⁴

Ruling of the Court

The appeal is dismissed for lack of merit.

***Dionesio is Guilty Beyond
Reasonable Doubt of Murder***

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²⁸ CA rollo, pp. 48-49.

²⁹ Id. at 43.

³⁰ Id. at 50.

³¹ Id. at 78.

³² Id.

³³ Id.

³⁴ Id.

Article 248 of the RPC defines the crime of murder as the unlawful killing of a person, which is not parricide or infanticide, committed with any of the following qualifying circumstances, viz.:

- (i) with treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.
- (ii) in consideration of a price, reward or promise.
- (iii) By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a street car or locomotive, fall of an airship, by means of motor vehicles, or with the use of any other means involving great waste and ruin.
- (iv) On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or any other public calamity.
- (v) With evident premeditation.
- (vi) With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.³⁵ (Emphasis and underscoring supplied)

Essentially, the elements of murder are: (i) that a person was killed; (ii) that the accused killed him or her; (iii) that the killing was attended by any of the qualifying circumstances in Article 248 of the RPC; and (iv) that the killing is not parricide or infanticide.³⁶

Remarkably, a conviction for murder need not be proven solely through direct evidence of the malefactor's culpability. To insist on merely admitting direct evidence as the sole proof of guilt will certainly lead to the pernicious situation wherein felons would be set free to the detriment of the judicial system, and thereby cause great danger to the community.³⁷

Accordingly, the offender's guilt may likewise be established through circumstantial evidence provided that the following requisites are present: (i) there is more than one circumstance; (ii) the facts from which the inferences are derived are proven; and (iii) the combination of all the circumstances is such as to produce a conviction beyond reasonable.³⁸ Equally important, "inferences

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³⁵ REVISED PENAL CODE, Article 248, as amended.

³⁶ *People v. Gaborne*, 791 Phil. 581, 592 (2016)

³⁷ *People v. Quitola*, 790 Phil. 75, 87 (2016), citing *People v. Uy*, 664 Phil. 483, 499-500 (2011).

³⁸ REVISED RULES ON EVIDENCE.

cannot be based on other inferences.”³⁹ Imperatively, all the circumstances taken together must form an unbroken chain of events pointing to the accused, to the exclusion of all others, as the author of the crime.⁴⁰

In the case at bar, the circumstances surrounding the fateful day of February 26, 2009 reveal an unbroken chain of facts, which establish Dionesio’s culpability beyond reasonable doubt, to wit:

- (i) At around 11 in the morning of February 26, 2009, Dionesio appeared at the Mila’s residence accusing the family of stealing his chicken and cooking it for dinner;
- (ii) When he encountered Landeliza, he attempted numerous times to thrust his bolo at her;
- (iii) Agnes talked to Dionesio, but he persistently accused her family of stealing his chicken. All the while, he kept thrusting his bolo at her;
- (iv) Agnes noticed that Dionesio’s bolo and spear had blood. She likewise saw blood stains in Dionesio’s hands;
- (v) Dionesio left enraged and continuously muttered that the Mila family stole his chicken;
- (vi) Seven minutes after, Agnes was alerted by the hysterical screams of Nang Trining who found Leoncia dead in their backyard;
- (vii) Agnes and Landeliza rushed outside and found Leoncia lying on the ground lifeless and with multiple stab wounds;
- (viii) Dr. Borbon testified that the cause of death was multiple hacking wounds inflicted through a sharp bladed weapon such as a bolo.

Verily, the testimonies of the prosecution witnesses served as crucial parts of a puzzle, which when pieced together revealed a sordid yet vivid picture of Leoncia’s murder. It bears noting that the trial court regarded the testimonies of the prosecution witnesses as credible and convincing. With respect to the issue of credibility, the trial court has the best vantage point considering that it directly heard the witnesses and observed their demeanor and manner of testifying under a grueling examination. Absent any error on the part of the trial

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³⁹ NEW RULES ON EVIDENCE.

⁴⁰ *People v. Fernandez*, 826 Phil. 102, 116 (2018), citing *Dungo v. People*, 762 Phil. 630, 679 (2015).

judge, this Court will not disturb his evaluation.⁴¹ More so, since it was affirmed by the CA.

The prosecution proved the qualifying circumstance of abuse of superior strength

Dionesio was indicted for murder qualified by abuse of superior strength and cruelty. Parenthetically, abuse of superior strength exists whenever there is inequality of force between the victim and the aggressor, assuming a situation of superiority of strength notoriously advantageous for the latter, which he/she takes advantage of in the commission of the crime.⁴² To properly appreciate abuse of superior strength, due regard must be made to the relative age, size, and strength of the parties.⁴³ It is necessary to evaluate the physical conditions of the protagonists or opposing forces, the arms or objects employed by both sides, and the incidents and episodes constituting the total development of the catastrophic event.⁴⁴

In line with the aforementioned tenets, this Court has held time and again that an attack by a man with a deadly weapon of an unarmed and defenseless woman constitutes an abuse of the superiority afforded by his sex and weapon.⁴⁵ This blatant abuse of superiority is all the more apparent when committed by a strong and relatively younger man against an old and frail female victim.⁴⁶

As illustrated in *People v. Corpuz*,⁴⁷ abuse of superior strength existed when an armed 36 year old assailant mercilessly attacked two defenseless elderly women aged 74 years old and 65 years old.⁴⁸ A similar conclusion was reached in *People v. Lopez*,⁴⁹ where the accused who “was a twenty-two-year old male, in the prime of his life, and armed with a deadly weapon,” attacked the unarmed “victim [who] was an old woman with failing eyesight.”⁵⁰ The same

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⁴¹ *People v. Umapas*, 807 Phil. 975, 990-991 (2017).

⁴² *People v. Corpuz*, 826 Phil. 801, 813 (2018), citing *Espineli v. People*, 735 Phil. 530, 544-545 (2014); *People v. Quisayas*, 731 Phil. 577, 596 (2014).

⁴³ *People v. Corpuz*, supra, citing *People v. Calpito*, 462 Phil. 172, 179 (2003).

⁴⁴ *People v. Butler*, 205 Phil. 228, 252-253 (1983), citing *People v. Cabiling* 165 Phil. 887, 905-906 (1976).

⁴⁵ *People v. Corpuz*, supra note 42, citing *People v. Appegu*, 429 Phil. 467, 482 (2002); *People v. Molas*, 291-A Phil. 516, 525 (1993).

⁴⁶ *People v. Corpuz*, id., citing *People v. Lopez*, 396 Phil. 604, 613 (2000).

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ 396 Phil. 604 (2000).

⁵⁰ Id. at 613.

circumstance obtained in *People v. Calpito*,⁵¹ where abuse of superior strength was obvious from the notorious inequality between a young man armed with a knife and the victim, a 74-year-old unarmed woman.⁵²

Applying the foregoing tenets to the case at bar, it becomes evident that Donesio clearly took advantage of his superior strength against the weak and elderly Leoncia. Donesio and Leoncia were respectively described as “[a]robust man engaged in the physical endeavors of a farmer while the victim is a frail 83-year-old grandmother.”⁵³ Donesio took advantage of his brute strength and inflicted multiple stab wounds against Leoncia, who succumbed to his assault. In Donesio’s hands, any resistance put up by Leoncia would have been futile.

***The prosecution failed to prove
the qualifying circumstance of
cruelty***

The nature of cruelty (*ensanamiento*)⁵⁴ lies in the fact that the culprit relishes and delights in making the victim suffer slowly and gradually by deliberately inflicting moral and physical pain that is unnecessary for the consummation of the criminal act.⁵⁵ The crime is aggravated because of the sadism and marked degree of malice and perversity in the commission of the offense.⁵⁶ Thus, the test in appreciating cruelty is whether the accused deliberately and sadistically augmented the atrocity by causing another wrong which is not necessary for its commission, or inhumanly increasing the victim’s suffering.⁵⁷ Cruelty cannot be presumed.⁵⁸

In this case, the RTC and the CA held that Leoncia’s murder was attended with cruelty as surmised from the number and severity of the wounds she sustained.

This Court disagrees. As clarified in a long line of cases, the number of wounds inflicted is not a sufficient criterion for the

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⁵¹ Supra note 43.

⁵² Id. at 179.

⁵³ CA rollo, p. 62.

⁵⁴ *People v. Ong*, 159 Phil. 212, 258-259 (1975).

⁵⁵ *People v. Sitchon*, 428 Phil. 82, 94 (2002), citing *People v. Tanzon*, 378 Phil. 530, 543 (1999).

⁵⁶ *People v. Cortes*, 413 Phil. 386, 392 (2001).

⁵⁷ *People v. Sitchon*, supra note 55, citing *People v. Iligan*, 369 Phil. 1005 (1999).

⁵⁸ *People v. Artieda*, 177 Phil. 117, 128-129 (1979), citing *People v. Jimenez*, 54 O.G. 1361.

appreciation of cruelty sans proof that the accused deliberately and savagely caused the victim to suffer languidly by inflicting needless pain.⁵⁹

Particularly, in *People v. Cortes*,⁶⁰ *People v. Sion*,⁶¹ *People v. Sitchon*,⁶² and *People v. Tonog, Jr.*,⁶³ this Court ruled that the presence of multiple injuries does not *ipso facto* prove cruelty absent any showing that the injuries were intended to prolong the victim's suffering.⁶⁴

As elucidated in *Tonog, Jr.*:⁶⁵

x x x The mere fact that wounds in excess of that necessary to cause death were inflicted upon the body of the victim does not necessarily imply that such wounds were inflicted with cruelty and with the intention of deliberately and inhumanly increasing the sufferings of the victim. It is necessary to show that the accused deliberately and inhumanly increased the victim's sufferings. The number of wounds is not the criterion for the appreciation of cruelty as an aggravating circumstance.⁶⁶ (Citations omitted)

In a similar vein, in *People v. Fernandez*,⁶⁷ it was declared that the infliction of the wounds must not have been continuous but rather, slow and gradual. There must be an appreciable time intervening between the infliction of one wound and that of another.⁶⁸ Moreover, in *People v. Artieda*,⁶⁹ and *People v. Panida, et al.*,⁷⁰ it was underscored that in addition to the number of wounds, there must also be proof that the victim was made to agonize before he was killed.⁷¹

Also, in *People v. Estorco*,⁷² *People v. Sion*,⁷³ *People v. Delmo, et al.*,⁷⁴ and *People v. Ong*,⁷⁵ the accused must have likewise relished

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⁵⁹ *People v. Tonog, Jr.*, 282 Phil. 809, 819 (1992).

⁶⁰ Supra note 56.

⁶¹ 342 Phil. 806 (1997).

⁶² Supra.

⁶³ Supra.

⁶⁴ *People v. Cortes*, supra, citing *People v. Magayac*, 387 Phil. 1, 12-13 (2000), citing *People v. Dayug and Bannaisan*, 49 Phil. 423, 425 (1926); *People v. Estorco*, 387 Phil. 49, 66 (2000).

⁶⁵ Supra.

⁶⁶ Id.

⁶⁷ 238 Phil. 28 (1987).

⁶⁸ Id. at 39, citing *People v. Ang*, 223 Phil. 333, 341-342 (1985).

⁶⁹ Supra note 58.

⁷⁰ *People v. Panida*, 369 Phil. 311 (1999).

⁷¹ Id. at 343-344, citing *People v. Domantay*, 366 Phil. 459, 477-478 (1999).

⁷² 387 Phil. 49 (2000).

⁷³ Supra note 61.

⁷⁴ *People v. Delmo*, 439 Phil. 212 (2002).

⁷⁵ Supra note 54.

in brutally causing the victim to suffer slowly and painfully,⁷⁶ and ruthlessly augmented the wrongs committed by causing another wrong not necessary for the commission of the crime to increase the victim's suffering.⁷⁷

Furthermore, an additional guideline was established in *People v. Curaraton*,⁷⁸ *People v. Rabanal*,⁷⁹ *People v. Sibonga*,⁸⁰ and *People v. Ferrer*,⁸¹ where it was stressed that the other injuries must have been inflicted while the victim was still alive in order to prolong his/her physical suffering.⁸² The latter must have languished in pain before being killed.⁸³ Thus, there is no cruelty when the other wrong is done after the victim had already died.⁸⁴

In fact, in *Pacris*,⁸⁵ *Ferrer*⁸⁶ and *Lopez*, the numerous injuries sustained by the victim, namely, twenty-one (21), thirteen (13), and seven (7), respectively, were still deemed insufficient proof of cruelty, without concomitant evidence that said wounds inhumanly increased the victim's suffering while still alive.⁸⁷

In relation thereto, it was established in *People v. Ilaoa*⁸⁸ that the brutality of the crime does not by itself demonstrate cruelty. The fact that the victim's dismembered body bore 43 stab wounds, 24 of which were fatal, and was discovered dumped in the street, are not adequate for a finding of cruelty where there is no showing that the accused caused the victim to suffer slowly and painfully by inflicting unnecessary physical and moral pain for his pleasure and satisfaction.⁸⁹

In view of the distinct nature of cruelty, this Court cautioned in *People v. Manzano, et al.*,⁹⁰ that the absence of an eyewitness lends doubt on whether the accused employed cruelty in committing the

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⁷⁶ *People v. Estorco*, supra at 258-259.

⁷⁷ *People v. Delmo*, supra at 263.

⁷⁸ 296 Phil. 233 (1993).

⁷⁹ 436 Phil. 519 (2002).

⁸⁰ 452 Phil. 13 (2003).

⁸¹ 325 Phil. 269 (1996).

⁸² *People v. Curaraton*, supra, citing *People v. Curiano*, 118 Phil. 1163, 1190 (1963).

⁸³ *People v. Rabanal*, supra at 535, citing *People v. Panida*, supra note 70343-344; *People v. Domantay*, supra.

⁸⁴ *People v. Sibonga*, supra at 33, citing *People v. Curiano*, supra; *People v. Pacris*, 272 Phil. 489, 501-502 (1991).

⁸⁵ *People v. Pacris*, supra

⁸⁶ Supra.

⁸⁷ Id. at 289, citing *People v. Pacris*, supra.

⁸⁸ 303 Phil. 247 (1994).

⁸⁹ Id. at 253-254.

⁹⁰ 157 Phil. 233 (1974).

crime.⁹¹ This ruling was echoed in *Tonog, Jr.*,⁹² where it was held that without an eyewitness, it cannot be certainly concluded that the wrong done was deliberately augmented.⁹³

Judged according to the stringent requisites highlighted, the prosecution's evidence is insufficient to prove the attendance of cruelty. It is indeed unfortunate that Leoncia suffered severe and multiple hacking wounds. However, there was no proof as to the manner in which the wounds were inflicted. It is unknown whether they were inflicted while Leoncia was alive, if they prolonged her suffering, if she was slowly and gradually stabbed, or if she agonized or languished upon each hit. In the same vein, it may not be determined whether Dionesio brutally hacked Leoncia and caused her to suffer slowly and painfully, or if the other stab wounds were unnecessary to kill Leoncia but nonetheless inflicted for his twisted pleasure. These lingering doubts must be resolved in Dionesio's favor.

Dionesio's confession is inadmissible in evidence for having been obtained in violation of his constitutional rights

Dionesio seeks to overturn his conviction by claiming that his alleged extrajudicial confession was obtained in violation of his Constitutional rights.

This Court partly agrees with him.

Essentially, Section 12, Article III of the 1987 Constitution enumerates the rights of an accused during custodial 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.

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⁹¹ Id. at 246-247.

⁹² Supra note 59.

⁹³ Id. at 819.



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

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In view of the importance of Section 12 of the Bill of Rights, Republic Act (R.A.) No. 7438⁹⁴ further impresses upon the police officers a strict adherence with the accused's constitutional rights during custodial investigation:

SEC. 2. Rights of Persons Arrested, Detained or under Custodial Investigation; Duties of Public Officers. —

(a) Any person arrested, detained or under custodial investigation shall at all times be assisted by counsel.

(b) Any public officer or employee, or anyone acting under his order or his place, who arrests, detains or investigates any person for the commission of an offense **shall inform the latter, in a language known to and understood by him, of his rights to remain silent and to have competent and independent counsel, preferably of his own choice, who shall at all times be allowed to confer private with the person arrested, detained or under custodial investigation.** If such person cannot afford the services of his own counsel, he must be provided by with a competent and independent counsel.

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(d) Any extrajudicial confession made by a person arrested, detained or under custodial investigation shall be in writing and signed by such person in the presence of his counsel or in the latter's absence, upon a valid waiver, and in the presence of any of the parents, elder brothers and sisters, his spouse, the municipal mayor, the municipal judge, district school supervisor, or priest or minister of the gospel as chosen by him; otherwise, such extrajudicial confession shall be inadmissible as evidence in any proceeding.

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(f) As used in this Act, "custodial investigation" shall include the practice of issuing an "invitation" to a person who is investigated in connection with an offense he is suspected to have committed, without prejudice to the liability of the "inviting" officer for any violation of law. (Emphasis supplied)

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⁹⁴ AN ACT DEFINING CERTAIN RIGHTS OF PERSON ARRESTED, DETAINED OR UNDER CUSTODIAL INVESTIGATION AS WELL AS THE DUTIES OF THE ARRESTING, DETAINING AND INVESTIGATING OFFICERS, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

The Constitution and the law seek to prevent the evil of extorting from the very mouth of the person under interrogation, the evidence that will be used to prosecute, and thereafter convict him.⁹⁵ They exist to protect the accused from the inherently coercive psychological, if not physical, atmosphere of such investigation, to avoid the slightest possible coercion that may lead the accused to admit something false. The requirements are so stringent that even if the confession speaks the truth, but was made without the assistance of counsel, it shall be inadmissible in evidence regardless of the absence of coercion, or even if it had been voluntarily given.⁹⁶

Correlatively, for an extrajudicial confession to be admissible, there must be stringent compliance with the following essential requisites: “(i) the confession must be voluntary; (ii) the confession must be made with the assistance of a competent and independent counsel, preferably of the confessant’s choice; (iii) the confession must be express; and (iv) the confession must be in writing.”⁹⁷ Failure to comply shall render the extrajudicial confession inadmissible pursuant to the cold objectivity of the exclusionary rule.⁹⁸

Skirting through the Constitution and R.A. No. 7438, the OSG contends that Dionesio was not yet under custodial investigation when he voluntarily confessed.

The contention is erroneous.

Essentially, “[c]ustodial investigation refers to the critical pre-trial stage when the investigation ceases to be a general inquiry into an unsolved crime but has begun to focus on a particular person as a suspect.”⁹⁹ The operative act is when the police investigation is no longer a general inquiry into an unsolved crime but has begun to focus on a particular suspect who has been taken into custody by the police to carry out a process of interrogation that lends itself to eliciting incriminatory statements, and not the signing by the suspect of his supposed extrajudicial confession.¹⁰⁰

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⁹⁵ *People v. Artellero*, 395 Phil. 876, 888 (2000).

⁹⁶ *Id.*, citing *People v. Cabiles*, 348 Phil. 220, 230 (1998).

⁹⁷ *People v. Rapeza*, 549 Phil. 378, 392-393 (2007), citing *People v. Porio*, 427 Phil. 82, 93 (2002), citing *People v. Gallardo*, 380 Phil. 182, 194 (2000) and *People v. Bacor*, 366 Phil. 197, 212 (1999); See *People v. Oranza*, 434 Phil. 417, 430 (2002); *People v. Valdez*, 395 Phil. 207, 224 (2000); *People v. Base*, 385 Phil. 803, 815 (2000); *People v. Lumandong*, 384 Phil. 390, 403 (2000); *People v. Calvo, Jr.*, 336 Phil. 655, 661 (1997).

⁹⁸ *People v. Rapeza*, supra at 393, citing *People v. Santos*, 347 Phil. 723, 733 (1997).

⁹⁹ *Id.*

¹⁰⁰ *People v. Artellero*, supra at 884-885.

It bears noting that SPO3 Tan, to whom Dionesio allegedly confessed, related that in as early as February 26, 2009, Dionesio was already the prime suspect for the murder of Leoncia. In fact, he testified that after interviewing Leoncia's granddaughters, they (police officers) proceeded to conduct a hot pursuit operation against Dionesio, which however proved futile, as they could no longer find the latter.¹⁰¹ This confirms that when they interviewed Dionesio at Jumampang's residence on March 1, 2009, the investigation was no longer a general inquiry into an unsolved crime, and the police had already zeroed in on a particular suspect – Dionesio.

SPO3 Tan's testimony is telling:

Q: And when you arrived there what happened?

A: We saw Dionesio Jamo, Jr. with his mother and Antonio Jumampang.

Q: And what did you do upon seeing the person the accused?

A: We interviewed him.

Q: Who were around when you made the interview Mr. Witness?

A: Antonio Jumampang, his mother and SPO1 Arceno

Q: And what transpired when you made an interview Mr. Witness?

A: I asked Bayot why he surrendered and what was his defense and he said that he was he one who killed Leoncia Elnas.

Q: And what happened next Mr. Witness?

A: We brought him to the office for the record purposes.

Q: How about the tools or arm that was used in the killing, please tell the court if you include that in your interview with the accused?

A: Yes, we included it.¹⁰²

Regrettably, nowhere is it shown that Dionesio was first apprised of his constitutional rights. The police officers were bound to inform him of his rights to remain silent, to have a competent and independent counsel, and that anything he says can and will be used against him. Thus, his supposed confession, which was made without the assistance of a counsel, is taboo and useless in a court of law.

However, Dionesio may not bank on the inadmissibility of his extrajudicial confession considering that even without it, his

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¹⁰¹ *Rollo*, p. 6.

¹⁰² *CA rollo*, pp. 47-48.

guilt was still proven beyond reasonable doubt through the credible evidence presented by the prosecution.

Furthermore, Dionesio's defenses of denial and alibi do not inspire belief. Aside from being inherently weak defenses, it was not physically impossible for Dionesio to have been at the crime scene. He admitted that he was at his family's farm, which is within the same locality as the place of the commission of the crime. Besides, his defense was debunked by Agnes who credibly testified that on the same day Leoncia was killed, Dionesio was at their home enraged, with bloody hands, and armed with bolo and spear.

Proper penalty and civil liability

Article 248 of the RPC, as amended by R.A. No. 7659, prescribes the penalty of *reclusion perpetua* to death for the crime of murder. Apart from abuse of superior strength, the prosecution failed to prove the existence of any other aggravating circumstance which attended the murder of Leoncia. Thus, Dionesio shall be sentenced to a penalty of *reclusion perpetua*.

Anent the damages, the Court affirms the awards of ₱75,000.00 as civil indemnity and ₱75,000.00 as moral damages. However, the amount of exemplary damages must be increased to ₱75,000.00, pursuant to the Court's ruling in *People v. Jugueta*.¹⁰³ The amounts shall be subject to a legal interest of six percent (6%) *per annum* from the finality of this Court's ruling until full satisfaction.¹⁰⁴

WHEREFORE, premises considered, the appeal is **DISMISSED for lack of merit**. The February 12, 2016 Decision of the Court of Appeals in CA-G.R. CR-HC No. 01214-MIN is **AFFIRMED with modification**. Accused-appellant Dionesio Jamo, Jr., alias "Bayot" is found **GUILTY** beyond reasonable doubt of murder and is sentenced to *reclusion perpetua*.

He is ordered to pay the heirs of the victim the following amounts: (i) ₱75,000 as civil indemnity; (ii) ₱75,000.00 as moral damages; and (iii) ₱75,000.00 as exemplary damages. All amounts due shall be subject to a legal interest of six percent (6%) *per annum* reckoned from the finality of this Court's Resolution until full satisfaction.

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¹⁰³ *People v. Jugueta*, 783 Phil. 806 (2016).

¹⁰⁴ *Id.*, citing *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
2020

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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