



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 205412

Present:

SERENO, *CJ.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, *JJ.*

- versus -

ADRIAN GUTING y TOMAS,
Accused-Appellant.

Promulgated:

SEP 09 2015

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DECISION

LEONARDO-DE CASTRO, J.:

For Our consideration is an appeal from the Decision¹ dated May 23, 2012 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04596, which affirmed the Decision² dated June 24, 2010 of the Regional Trial Court (RTC), Camiling, Tarlac, Branch 68, in Criminal Case No. 06-93, finding accused-appellant Adrian Guting y Tomas guilty of the crime of Parricide under Article 246 of the Revised Penal Code.

In an Information³ dated August 1, 2006, docketed as Criminal Case No. 06-93, accused-appellant was charged before the RTC with Parricide, allegedly committed as follows:

That on or about 4:50 in the rainy afternoon of July 30, 2006 at Plaridel St., Poblacion B. Camiling, Tarlac, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously, and with evident premeditation, that is, having conceived and deliberated to kill his own father Jose Guting y Ibarra, 67 years old, married, while inside their residential house, and armed with a bladed weapon, suddenly and unexpectedly stabbed several times the victim, employing means, manner and form in the execution thereof which tender directly and specially to insure its commission

¹ *Rollo*, pp. 2-11; penned by Associate Justice Jose C. Reyes, Jr. with Associate Justices Priscilla J. Baltazar-Padilla and Agnes Reyes-Carpio, concurring.

² *CA rollo*, pp. 12-16; penned by Presiding Judge Jose S. Vallo.

³ Records, p. 1.

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without danger to the person of said accused, the result of which attack was that said victim received multiple stab wounds on his body which directly caused his instantaneous death.

When arraigned on September 19, 2006, accused-appellant pleaded not guilty to the crime charged.⁴ Thereafter, pre-trial and trial on the merits ensued.

Below is a summary of the prosecution witnesses' testimonies.

Police Officer (PO) 1 Fidel Torre (Torre) testified that on the rainy afternoon of July 30, 2005, at around 5:00 o'clock, he and PO1 Alexis Macusi (Macusi) were standing in front of the Camiling Police Station when accused-appellant, all wet from the rain and with a bladed weapon in his hand, suddenly approached them and told them that he had stabbed his father. Hearing accused-appellant's statement, PO1 Torre immediately got the bladed weapon from accused-appellant and turned it over to PO1 Macusi for proper disposition.⁵

PO1 Macusi corroborated PO1 Torre's testimony. PO1 Macusi narrated that accused-appellant suddenly appeared before them at the Police Station, all wet and holding a knife. Accused-appellant proclaimed that his father was already dead. Unsuspecting, PO1 Macusi asked who killed accused-appellant's father. Accused-appellant answered, "*Sinaksak ko po yong tatay ko! Napatay ko na po!*" PO1 Torre then got the knife from accused-appellant and gave it to PO1 Macusi. PO1 Macusi placed the knife in the custodian cabinet in the Police Station. Thereafter, PO1 Macusi, Senior Police Officer (SPO) 2 Eliseo Hermosado (Hermosado), and SPO2 Noli Felipe (Felipe) went to the residence of Jose Guting (Jose), accused-appellant's father, to verify the reported crime, while other police officers informed Flora Guting (Flora), Jose's wife (also accused-appellant's mother), who was still in the market with Emerlito Guting (Emerlito), Jose and Flora's other son (accused-appellant's brother), who was then driving a tricycle for hire. While waiting for Flora and Emerlito, PO1 Macusi, SPO2 Hermosado, and SPO2 Felipe inquired from the neighbors if anybody had witnessed the crime, but no one did. When Flora and Emerlito arrived, they entered the house and saw Jose's lifeless body with blood still oozing from his wounds. Immediately, Flora and Emerlito brought Jose to the hospital where he was pronounced dead on arrival. Subsequently, Flora and Emerlito executed their respective *Sinumpaang Salaysay* and filed a case for Parricide against accused-appellant.⁶

On cross-examination, PO1 Macusi divulged that when the knife was given to him by PO1 Torre for safekeeping, he did not ask accused-appellant if it was the knife he used to kill his father. Neither did accused-appellant

⁴ Id. at 11.

⁵ TSN, June 5, 2008, pp. 3-4.

⁶ TSN, February 7, 2008, pp. 3-8.

mention to PO1 Macusi that it was the knife he used in stabbing Jose. All that accused-appellant said was, “*Sinaksak ko po yong tatay ko! Napatay ko na po!*” PO1 Macusi also admitted that he did not request for the examination of the knife because it was clean; any trace or stain of blood on it would have been washed away by the rains at that time. PO1 Macusi was further questioned as to why he did not put into writing accused-appellant’s admission that he killed his father, and PO1 Macusi explained that it escaped his mind as he was still new at the job then and he was carried away by the fast flow of events.⁷

Flora conceded that she was not present when Jose, her husband, was killed by accused-appellant, their son. Flora only learned of the stabbing incident and accused-appellant’s surrender from the police officers of the Camiling Police Station. Flora declared that she spent for the wake and burial of Jose and that Jose, who was a tricycle driver, had been earning around ₱200.00 a day at the time of his death.⁸

Doctor Valentin Theodore Lomibao (Dr. Lomibao) conducted the autopsy of Jose’s body. Dr. Lomibao reported that Jose suffered around 39 stab wounds on the head, neck, thorax, abdomen, and extremities. Jose’s internal organs were heavily damaged by the stab wounds, resulting in his instantaneous death. Dr. Lomibao also showed several pictures of Jose’s body which were taken before he conducted the autopsy.⁹

Accused-appellant opted not to present any evidence in his defense.

The RTC promulgated its Decision on June 24, 2010 finding accused-appellant guilty of Parricide based on his verbal admission that he killed his father, Jose. Even assuming that accused-appellant’s admission was inadmissible in evidence, the RTC adjudged that the prosecution was still able to establish sufficient circumstantial evidence which, taken collectively, pointed to accused-appellant as the perpetrator of the brutal killing of his father. The dispositive portion of the RTC judgment reads:

WHEREFORE, accused Adrian Guting y Tomas is hereby found guilty beyond reasonable doubt of the offense of Parricide punishable under Article 246 of the Revised Penal Code, as amended and hereby sentences him to a penalty of *Reclusion Perpetua*.

Accused is likewise ordered to pay the heirs of the victim the amount of ₱50,000.00 as civil indemnity, another amount of ₱50,000.00 as moral damages, and still another amount of ₱30,000.00 as temperate damages.¹⁰

⁷ TSN, February 7, 2008, pp. 9-13.

⁸ TSN, January 18, 2007, pp. 4-9.

⁹ TSN, August 30, 2007, pp. 3-10.

¹⁰ CA *rollo*, p. 16.

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Accused-appellant appealed his conviction before the Court of Appeals, docketed as CA-G.R. CR.-H.C. No. 04596. The appellate court promulgated its Decision on May 23, 2012, decreeing thus:

WHEREFORE, the appeal is **DENIED**. The Decision of the Regional Trial Court of Camiling, Tarlac, Branch 68 convicting herein accused-appellant Adrian Guting y Tomas for the crime of Parricide under Article 246 of the Revised Penal Code is **AFFIRMED**.¹¹

Hence, accused-appellant comes before us via the instant appeal with the same assignment of errors he raised before the Court of Appeals, to wit:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT ON THE BASIS OF HIS EXTRAJUDICIAL ADMISSION.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT ON THE BASIS OF INSUFFICIENT CIRCUMSTANTIAL EVIDENCE.

III

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN HIS FAVOR.¹²

We find no merit in accused-appellant's appeal.

Accused-appellant argues that his oral confession to PO1 Torre and PO1 Macusi, without the assistance of counsel, is inadmissible in evidence for having been made in blatant violation of his constitutional right under Article III, Section 12 of the 1987 Constitution.

Section 12, paragraphs 1 and 3, Article III (Bill of Rights) of the 1987 Constitution mandate that:

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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¹¹ *Rollo*, p. 10.

¹² *CA rollo*, p. 29.

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(3) Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.¹³

The “investigation” in Section 12, paragraph 1, Article III of the 1987 Constitution pertains to “custodial investigation.” Custodial investigation commences when a person is taken into custody and is singled out as a suspect in the commission of a crime under investigation and the police officers begin to ask questions on the suspect’s participation therein and which tend to elicit an admission.¹⁴ As we expounded in *People v. Marra*¹⁵:

Custodial investigation involves any questioning initiated by law enforcement officers *after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.* It is only after the investigation ceases to be a general inquiry into an unsolved crime and begins to focus on a particular suspect, *the suspect is taken into custody, and the police carries out a process of interrogations that lends itself to eliciting incriminating statements* that the rule begins to operate. (Citation omitted.)

Applying the foregoing definitions, accused-appellant was not under custodial investigation when he admitted, without assistance of counsel, to PO1 Torre and PO1 Macusi that he stabbed his father to death. Accused-appellant’s verbal confession was so spontaneously and voluntarily given and was not elicited through questioning by the police authorities. It may be true that PO1 Macusi asked accused-appellant who killed his father, but PO1 Macusi only did so in response to accused-appellant’s initial declaration that his father was already dead. At that point, PO1 Macusi still had no idea who actually committed the crime and did not consider accused-appellant as the suspect in his father’s killing. Accused-appellant was also merely standing before PO1 Torre and PO1 Macusi in front of the Camiling Police Station and was not yet in police custody.

Accused-appellant cites in support of his argument *People v. Cabintoy*,¹⁶ where we held that an uncounselled extrajudicial confession without a valid waiver of the right to counsel – that is, in writing and in the presence of counsel – is inadmissible in evidence. The situation of accused-appellants in *Cabintoy* is not similar to that of accused-appellant herein. The accused-appellants in *Cabintoy*, when they executed their extrajudicial confessions without assistance of counsel, were already suspects under custodial investigation by the San Mateo Police for robbery with homicide committed against a taxi driver. Accused-appellant in the instant case, on his own volition, approached unsuspecting police officers standing in front of the police station with a knife in his hand and readily confessed to stabbing his father to death. Accused-appellant was arrested and subjected to custodial investigation by the police officers only **after** his confession.

¹³ Article III, Section 17 of the 1987 Constitution provides: “No person shall be compelled to be a witness against himself.”

¹⁴ *People v. Pasudag*, 409 Phil. 560, 570 (2001).

¹⁵ G.R. No. 108494, September 20, 1994, 236 SCRA 565, 573.

¹⁶ 317 Phil. 528, 537 (1995).

Hence, herein accused-appellant's confession, even if done without the assistance of a lawyer, is not in violation of his constitutional right under Section 12, paragraph 1, Article III of the 1987 Constitution. The present case is more akin to *People v. Andan*¹⁷ wherein we allowed into evidence the uncounselled confession of therein accused-appellant given under the following circumstances:

Under these circumstances, it cannot be successfully claimed that appellant's confession before the mayor is inadmissible. It is true that a municipal mayor has "operational supervision and control" over the local police and may arguably be deemed a law enforcement officer for purposes of applying Section 12 (1) and (3) of Article III of the Constitution. However, appellant's confession to the mayor was not made in response to any interrogation by the latter. In fact, the mayor did not question appellant at all. No police authority ordered appellant to talk to the mayor. It was appellant himself who spontaneously, freely and voluntarily sought the mayor for a private meeting. The mayor did not know that appellant was going to confess his guilt to him. When appellant talked with the mayor as a confidant and not as a law enforcement officer, his uncounselled confession to him did not violate his constitutional rights. Thus, it has been held that the constitutional procedures on custodial investigation do not apply to a spontaneous statement, not elicited through questioning by the authorities, but given in an ordinary manner whereby appellant orally admitted having committed the crime. What the Constitution bars is the compulsory disclosure of incriminating facts or confessions. The rights under Section 12 are guaranteed to preclude the slightest use of coercion by the state as would lead the accused to admit something false, not to prevent him from freely and voluntarily telling the truth. Hence, we hold that appellant's confession to the mayor was correctly admitted by the trial court.

Moreover, accused-appellant's verbal confession that he stabbed his father to death made to PO1 Torre and PO1 Macusi, established through the testimonies of said police officers, falls under Rule 130, Section 26 of the Rules of Court, which provides that "[t]he act, declaration or omission of a party as to a relevant fact may be given in evidence against him." This rule is based upon the notion that no man would make any declaration against himself, unless it is true.¹⁸ Accused-appellant's declaration is admissible for being part of the *res gestae*. A declaration is deemed part of the *res gestae* and admissible in evidence as an exception to the hearsay rule when these three requisites concur: (1) the principal act, the *res gestae*, is a startling occurrence; (2) the statements were made before the declarant had time to contrive or devise; and (3) the statements concern the occurrence in question and its immediately attending circumstances.¹⁹ All the requisites are present in this case. Accused-appellant had just been through a startling and gruesome occurrence, that is, his father's death. Accused-appellant made the confession to PO1 Torre and PO1 Macusi only a few minutes after and while he was still under the influence of said startling occurrence, before he

¹⁷ 336 Phil. 91, 105-106 (1997).

¹⁸ *Bon v. People*, 464 Phil. 125, 138 (2004).

¹⁹ *People v. Sace*, 631 Phil. 335, 348-349 (2010).

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had the opportunity to concoct or contrive a story. In fact, accused-appellant seemed to still be in shock when he walked to the Police Station completely unmindful of the rain and the knife in his hand, and headed directly to PO1 Torre and PO1 Macusi, who were standing in front of the Police Station, to confess to stabbing his father to death. The police officers who immediately went to the house of Jose, accused-appellant's father, found Jose's lifeless body with blood still oozing from his stab wounds. *As res gestae*, accused-appellant's spontaneous statement is admissible in evidence against him.

Accused-appellant's confession was further corroborated by the circumstantial evidence.

To justify a conviction upon circumstantial evidence, the combination of circumstances must be such as to leave no reasonable doubt in the mind as to the criminal liability of the accused.²⁰ Rule 133, Section 4 of the Rules of Court enumerates the conditions when circumstantial evidence is sufficient for conviction, thus:

SEC. 4. *Circumstantial Evidence, when sufficient.* – Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all circumstances is such as to produce conviction beyond reasonable doubt.

The RTC, affirmed by the Court of Appeals, found that the aforequoted requisites have been satisfied in this case given the following circumstantial evidence:

1. On or about 4:50 o'clock in the afternoon of July 30, 2006, the victim was stabbed to death.
2. Thirty minutes later, [accused-appellant] personally went to Camiling Police Station and surrendered himself and the bladed weapon he used in killing his father to the police authorities of the said police station.
3. When his mother learned about the incident, [accused-appellant] did nothing to appease his responding mother. "It has always been said that criminal case are primarily about human nature." Here is a case of a son doing nothing to explain the death of his father to his grieving mother. Such inaction is contrary to human nature.
4. When he was detained after police investigation, [accused-appellant] did not object to his continued detention.

²⁰ *Belonghilot v. Hon. Angeles*, 450 Phil. 265, 290 (2003).

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These circumstances constitute an unbroken chain which leads to one fair and reasonable conclusion that points to accused-appellant, to the exclusion of all others, as the guilty person.²¹ The incriminating collage of facts against accused-appellant was created by circumstantial evidence anchored on the credible and unbiased testimony of the prosecution's witnesses. We will not disturb but shall accord the highest respect to the findings of the RTC on the issue of credibility of the witnesses and their testimonies, it having had the opportunity to observe their deportment and manner of testifying during the trial.²²

Article 246 of the Revised Penal Code defines Parricide as follows:

Art. 246. *Parricide*. – Any person who shall kill his father, mother, or child, whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse, shall be guilty of parricide and shall be punished by the penalty of *reclusion perpetua* to death.

Parricide is committed when: (1) a person is killed; (2) the deceased is killed by the accused; and (3) the deceased is the father, mother, or child, whether legitimate or illegitimate, or a legitimate other ascendant or other descendant, or the legitimate spouse of the accused. The key element in Parricide – other than the fact of killing – is the relationship of the offender to the victim.²³ All the elements are present in this case. Jose, the victim, was killed by accused-appellant, his own son. Accused-appellant's birth certificate, which was presented before the RTC, establishes that accused-appellant was the legitimate son of Jose and Flora.

The crime of Parricide is punishable by the indivisible penalties of *reclusion perpetua* to death. With one mitigating circumstance, namely, voluntary surrender, and no aggravating circumstance, the imposition of the lesser penalty of *reclusion perpetua* on accused-appellant was proper.

We modify though the monetary awards imposed by the RTC and affirmed by the Court of Appeals. When death occurs due to a crime, the following damages may be awarded: (1) civil indemnity *ex delicto* for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; and (5) temperate damages.²⁴

Prevailing jurisprudence pegs the amount of civil indemnity and moral damages awarded to the heirs of the victim of Parricide at ₱75,000.00 each.²⁵ The temperate damages awarded by the RTC in the amount of ₱30,000.00 should be decreased to ₱25,000.00 to also conform with the latest jurisprudence.²⁶ It is fitting to additionally award exemplary damages

²¹ *People v. Lorenzo*, 310 Phil. 694, 714 (1995).

²² *People v. Cipriano*, 353 Phil. 22, 34-35 (1998).

²³ *People v. Dela Cruz*, 626 Phil. 280, 288 (2010).

²⁴ *People v. Nelmida*, G.R. No. 184500, September 11, 2012, 680 SCRA 386, 437.

²⁵ *People v. Tibon*, 636 Phil. 521, 533 (2010).

²⁶ *People v. Nelmida*, supra note 24 at 439.

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in the sum of ₱30,000.00 considering the presence of the qualifying circumstance of relationship.

Damages for the loss of earning capacity of Jose should be awarded as well given the testimony of his wife, Flora, on this particular fact. We refer to our pronouncements in *People v. Verde*²⁷ that:

The heirs are also entitled to damages for the loss of earning capacity of the deceased Francisco Gealon. The fact that the prosecution did not present documentary evidence to support its claim for damages for loss of earning capacity of the deceased does not preclude recovery of said damages. The testimony of the victim's wife, Delia Gealon, as to the earning capacity of her husband Francisco Gealon sufficiently establishes the basis for making such an award. It was established that Francisco Gealon was 48 years old at the time of his death in 1991. His average income was ₱200.00 a day. Hence, in accordance with the American Expectancy Table of Mortality adopted in several cases decided by this Court, the loss of his earning capacity is to be calculated as follows:

$$\text{Net earning capacity (x) = life expectancy} \times \begin{array}{l} \text{Gross} \\ \text{annual} \\ \text{income} \end{array} - \begin{array}{l} \text{less living} \\ \text{expenses} \\ \text{(50\% of gross} \\ \text{annual income)} \end{array}$$

$$\begin{aligned} x &= \frac{2(80-48)}{3} \times [73,000.00 - 36,500.00] \\ &= 21.33 \times 36,500.00 \\ &= ₱778,545.00 \text{ (Citations omitted.)} \end{aligned}$$

To be able to claim damages for loss of earning capacity despite the non-availability of documentary evidence, there must be oral testimony that: (a) the victim was self-employed earning less than the minimum wage under current labor laws and judicial notice was taken of the fact that in the victim's line of work, no documentary evidence is available; or (b) the victim was employed as a daily wage worker earning less than the minimum wage under current labor laws.²⁸

In the case at bar, Jose was 67 years old at the time of his death and was earning a daily wage of ₱200.00 as a tricycle driver, which was below the ₱252.00 to ₱263.50 minimum wage rate for non-agriculture under Wage Order No. 11 dated June 16, 2005 for Region III. We take judicial notice that there is no documentary evidence available to establish the daily earning capacity of a tricycle driver. We thus compute the award of damages for the loss of Jose's earning capacity as follows:

²⁷ 362 Phil. 305, 321 (1999).

²⁸ *People v. Dizon*, 378 Phil. 261, 278 (1999).

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Net earning capacity (x) = life expectancy x $\frac{\text{Gross annual income} - \text{less living expenses (50\% of gross annual income)}}{3}$

$$x = \frac{2(80-67)}{3} \times [73,000.00 - 36,500.00]$$


$$= 8.67 \times 36,500.00$$

$$= \text{P}316,455.00$$

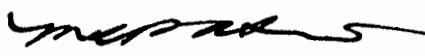
Finally, in conformity with current policy, we impose interest on all monetary awards for damages at the rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.


WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 04596, finding accused-appellant, Adrian Guting y Tomas, **GUILTY** beyond reasonable doubt of the crime of Parricide, is hereby **AFFIRMED with MODIFICATIONS**. Accused-appellant is sentenced to suffer the penalty of *reclusion perpetua* and to pay the heirs of the victim the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, ₱25,000.00 as temperate damages, ₱30,000.00 as exemplary damages, and ₱316,455.00 as compensation for loss of earning capacity. All monetary awards for damages shall be subject to interest of six percent (6%) per annum from date of finality of this Decision until they are fully paid.

SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
 Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
 Chief Justice
 Chairperson



LUCAS P. BERSAMIN
Associate Justice




JOSE PORTUGAL PEREZ
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice