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The fairness of the award made by the Trial Court in favor of the Heirs also calls for appellate determination for, with the "reasonable compensation" of P880,000.00 ordered paid for the period from August, 1964 to November, 1971, plus the monthly rentals of P10,000.00 required to be paid thereafter until physical possession is delivered to the Heirs, the total collectible amount would reach the staggering amount of P2,450,000.00 as of December 1984 (245 months from August, 1964, excluding interest, for machineries originally worth P165,000.00 and which must have outlived their lifetime). The judgment also orders the return of the machineries to the Heirs "in the same good operating condition" that they were at the time petitioners-defendants took possession thereof, or approximately 20 years ago, which is an impossible condition.

All told, in addition to procedural considerations, the broader interests of substantial justice would be better subserved if the appeal were allowed.

ACCORDINGLY, the Petition is granted and this case is hereby ordered remanded to the now Intermediate Appellate Court for determination of petitioners-defendants' appeal on the merits.

No costs.

SO ORDERED.

Fernando, C.J., Teehankee, Makasiar, Aquino, Concepcion Jr., Plana, Escolin, Relova, Gutierrez, Jr., de la Fuente, Cuevas, and *Alampay, JJ.*, concur.

Abad Santos, J., no part

EN BANC

[G.R. No. 51770. March 20, 1985]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **FRANCISCO GALIT,** *defendant-appellant.*

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SYLLABUS

1. **CONSTITUTIONAL LAW; RIGHTS OF AN ACCUSED; PROCEDURE FOR PEACE OFFICER IN MAKING ARREST AND CONDUCTING CUSTODIAL INVESTIGATION.**— This Court, in the case of Morales *vs.* Ponce Enrile, laid down the correct procedure for peace officers to follow when making an arrest and in conducting a custodial investigation, and which We reiterate: "At the time a person is arrested, it shall be the duty of the arresting officer to inform him of the reason for the arrest and he must be shown the warrant of arrest, if any. He shall be informed of his constitutional rights to remain silent and to counsel, and that any statement he might make could be used against him. The person arrested shall have the right to communicate with his lawyer, a relative, or anyone he chooses by the most expedient means - by telephone if possible - or by letter or messenger. It shall be the responsibility of the arresting officer to see to it that this is accomplished. No custodial investigation shall be conducted unless it be in the presence of counsel engaged by the person arrested, by any person on his behalf, or appointed by the court upon petition either of the detainee himself or by anyone on his behalf. The right to counsel may be waived but the waiver shall not be valid unless made with the assistance of counsel. Any statement obtained in violation of the procedure herein laid down, whether exculpatory or inculpatory, in whole or in part, shall be inadmissible in evidence."

2. **ID.; ID.; ID.; A LONG QUESTION FOLLOWED BY A MONOSYLLABIC ANSWER DOES NOT SATISFY REQUIREMENTS OF THE LAW.**— A long question followed by a manosyllabic answer does not satisfy the requirements of the law that the accused be informed of his rights under the Constitution and our laws. Instead there should be several short and clear questions and every right explained in simple words in a dialect or language known to the person under investigation. Accused is from Samar and there is no showing that he understands Tagalog. Moreover, at the time of his arrest, accused was not permitted to communicate with his lawyer, a relative, or a friend. In fact, his sisters and other relatives did not know that he had been brought to the NBI for investigation and it was only about two weeks after he had executed the salaysay that his relatives were allowed to visit him. His statement does not even contain any waiver of right to counsel and yet during the investigation he was not as-

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sisted by one. At the supposed re-enactment, again accused was not assisted by counsel of his choice. These constitute gross violations of his rights.

3. **REMEDIAL LAW; EVIDENCE; ADMISSIBILITY; CONFESSION OBTAINED THROUGH FORCE AND INTIMIDATION, INADMISSIBLE.**— The alleged confession and the pictures of the supposed re-enactment are inadmissible as evidence because they were obtained in a manner contrary to law.

APPEARANCES OF COUNSEL

Avelino Cruz for accused-appellant.
The Solicitor General for plaintiff-appellee.

DECISION

CONCEPCION JR., *J.:*

1. The prisoner was arrested for killing the victim on the occasion of a robbery. He had been detained and interrogated almost continuously for five days, to no avail. He consistently maintained his innocence. There was no evidence to link him to the crime. Obviously, something drastic had to be done. A confession was absolutely necessary. So the investigating officers began to maul him and to torture him physically. Still the prisoner insisted on his innocence. His will had to be broken. A confession must be obtained. So they continued to maltreat and beat him. They covered his face with a rag and pushed his face into a toilet bowl full of human waste. The prisoner could not take any more. His body could no longer endure the pain inflicted on him and the indignities he had to suffer. His will had been broken. He admitted what the investigating officers wanted him to admit and he signed the confession they prepared. Later, against his will, he posed for pictures as directed by his investigators, purporting it to be a re-enactment.

2. This incident could have happened in a Russian gulag or in Hitler's Germany. But no it did not. It happened in the Philippines. In this case before Us.

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3. The Revised Penal Code punishes the maltreatment of prisoners as follows:

"ART. 235. *Maltreatment of prisoners.*- The penalty of *arresto mayor* in its medium period to *prision correccional* in its minimum period, in addition to his liability for the physical injuries or damage caused, shall be imposed upon any public officer or employee who shall over do himself in the correction or handling of a prisoner or detention prisoner under his charge, by the imposition of punishments in a cruel and humiliating manner.

"If the purpose of the maltreatment is to extort a confession, or to obtain some information from the prisoner, the offender shall be punished by *prision correccional* in its minimum period, temporary special disqualification and a fine not exceeding 500 pesos, in addition to his liability for the physical injuries or damage caused."

4. This Court in a long line of decisions over the years, the latest being the case of *People vs. Cabrera,*[1] has consistently and strongly condemned the practice of maltreating prisoners to extort confessions from them as a grave and unforgivable violation of human rights. But the practice persists. Fortunately, such instances constitute the exception rather than the general rule.

5. Before Us for mandatory review is the death sentence imposed upon the accused Francisco Galit by the Circuit Criminal Court of Pasig, Rizal, in Crim. Case No. CCC-VII-2589 of said court.

6. The record shows that in the morning of August 23, 1977, Mrs. Natividad Fernando, a widow, was found dead in the bedroom of her house located at Barrio Geronimo, Montalban, Rizal, as a result of seven (7) wounds inflicted upon different parts of her body by a blunt instrument.[2] More than two weeks thereafter, police authorities of Montalban picked up the herein accused, Francisco Galit, an ordinary construction worker *(pion)* living in

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[1] G.R. No. 51858, promulgated January 31, 1985.

[2] Exhs. "C", "D", "E", "E-1" "E-2"; t.s.n. of August 3, 1978; p. 7.

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Marikina, Rizal, on suspicion of the murder. On the following day, however, September 8, 1977, the case was referred to the National Bureau of Investigation (NBI) for further investigation in view of the alleged limited facilities of the Montalban police station. Accordingly, the herein accused was brought to the NBI where he was investigated by a team headed by NBI Agent Carlos Flores.[3] NBI Agent Flores conducted a preliminary interview of the suspect who allegedly gave evasive answers to his questions.[4] But the following day, September 9, 1977, Francisco Galit voluntarily executed a *Salaysay* admitting participation in the commission of the crime. He implicated Juling Dulay and Pabling Dulay as his companions in the crime.[5] As a result, he was charged with the crime of Robbery with Homicide, in an information filed before the Circuit Criminal Court of Pasig, Rizal, committed as follows:

"That on or about the 23rd day of August 1977 in the municipality of Montalban, province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with Juling Doe and Pabling Doe, whose true identities and present whereabouts are still unknown and three of them mutually helping and aiding one another, with intent of gain and by means of force, intimidation and violence upon the person of one Natividad Fernando while in her dwelling, did, then and there wilfully, unlawfully, and feloniously take, steal and carry away from the person of said Natividad Fernando, cash money of an undetermined amount, belonging to said Natividad Fernado, thereby causing damage and prejudice to the latter in an undetermined amount; that by reason or on the occasion of said robbery, and for purpose of enabling them (accused) to take, steal and carry away the said cash money in pursuance of their conspiracy and for the purpose of ensuring the success of their criminal act, with intent to kill, did, then and there wilfully, unlawfully, and feloniously attack, assault and stab with a dagger said Natividad Fernando on the different parts of her body, thereby inflicting multiple

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[3] T.S.N. of August 3, 1978, p. 10.

[4] *Id.*, p. 26.

[5] Exh. "F".

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injuries on the head and extremities, which directly caused her death, and the total amount of the loss is P10.000.00 including valuables and cash."

Trial was held, and on August 11, 1978, immediately after the accused had terminated the presentation of his evidence, the trial judge dictated his decision on the case in open court, finding the accused guilty as charged and sentencing him to suffer the death penalty; to indemnify the heirs of the victim in the sum of P110,000.00, and to pay the costs. Hence, the present recourse.

7. The incriminatory facts of the case, as found by the trial court, are as follows:

"From the evidence adduced in this case, it was gathered that in the early morning of August 23, 1977, a 70-year old woman named Natividad Fernando, widow, in the twilight of her life, was robbed and then hacked to death by the accused and two others in her (victim's) own residence at Montalban, Rizal.

"Prosecution witness Florentino Valentino testified that he heard accused Francisco Galit and his wife having an argument in connection with the robbery and killing of the victim, Natividad Fernando. It appears that on August 18, 1977, accused Galit and two others, namely, Juling Dulay and a certain 'Pabling' accidentally met each other at Mariquina, Rizal, and in their conversation, the three agreed to rob Natividad Fernando; that it was further agreed among them to enter the premises of the victim's house at the back yard by climbing over the fence; that once inside the premises, they will search every room, especially the aparador and filing cabinets, with the sole aim of looking for cash money and other valuables.

"Witness Valentino further testified that on August 22, 1977, at around 6:00 o'clock in the afternoon, accused Francisco Galit and his two companions, Juling Dulay and Pabling, as per their previous agreement, met at the place where they formerly saw each other in Mariquina, Rizal; that the three conspirators took a jeepney for Montalban and upon passing the Montalban Municipal Building, they stopped and they waited at the side of the road until the hour of midnight; that at about 12:00 o'clock that night, the three repaired to the premises of the victim, Natividad Fernando; that they entered the said premises through the back wall of the house; that while entering the premises of said house, Juling Dulay saw a bolo, lying near the piggery compound,

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which he picked up and used it to destroy the back portion of the wall of the house; that it was Juling Dulay who first entered the house through the hole that they made, followed by the accused Galit and next to him was 'Pabling'; that it was already early dawn of August 23, 1977 when the three were able to gain entrance into the house of the victim; as the three could not find anything valuable inside the first room that they entered, Juling Dulay destroyed the screen of the door of the victim, Natividad Fernando; that upon entering the room of the the victim, the three accused decided to kill first the victim, Natividad Fernando, before searching the room for valuables; that Juling Dulay, who was then holding the bolo, began hacking the victim, who was then sleeping, and accused Galit heard a moaning sound from the victim; that after the victim was killed, the three accused began searching the room for valuables; that they helped each other in opening the iron cabinet inside the room of the victim, where they found some money; that when the three accused left the room of the victim, they brought with them some papers and pictures which they threw outside; that after killing and robbing the victim, the three accused went out of the premises of the house, using the same way by which they gained entrance, which was through the back portion of the wall; that the three accused walked towards the river bank where they divided the loot that they got from the room of the victim; that their respective shares amount to P70.00 for each of them; and that after receiving their shares of the loot, the three accused left and went home.

"When witness Florentino Valentino was in his room, which was adjoining that of accused Francisco Galit, he overheard accused Galit and his wife quarreling about the intention of accused Galit to leave their residence immediately; that he further stated that he overheard accused Galit saying that he and his other two companions robbed and killed Natividad Fernando.

"As a result of the killing, the victim, Natividad Fernando, suffered no less than seven stab wounds. There was massive cerebral hemorrhage and the cause of death was due to shock and hemorrhage, as evidenced by the Medico-Legal Necropsy Report (Exhs. 'C' and 'C-2'), and the pictures taken of the deceased victim (Exhs. 'E', 'E-1' and 'E-2')."

8. The accused, upon the other hand, denied participation in the commission of the crime. He claimed that he was in his house in Marikina, Rizal, when the crime was committed in Montalban, Rizal. He also assailed the admissibility of the extra-judicial con-

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fession extracted from him through torture, force and intimidation as described earlier, and without the benefit of counsel.

9. After a review of the records, We find that the evidence presented by the prosecution does not support a conviction. In fact, the findings of the trial court relative to the acts attributed to the accused are not supported by competent evidence. The principal prosecution witness, Florentino Valentino merely testified that he and the accused were living together in one house in Marikina, Rizal, on August 23, 1977, because the mother of his wife is the wife of the accused; that when he returned home at about 4:00 o'clock in the morning from the police station of Marikina, Rizal, the accused and his wife were quarreling *(nagtatalo)*; that he heard that the accused was leaving the house because he and his companions had robbed "Aling Nene," the owner of a poultry farm and piggery in Montalban Rizal; that the wife of the accused was imploring him not leave, but the latter was insistent; that he saw the accused carrying a bag containing about two handfuls *(dakot)* of coins which he had taken from Aling Nene; that upon learning of what the accused had done, he went to the Montalban police the next day and reported to the police chief about what he had heard; and that a week later, Montalban policemen went to their house and arrested the accused.[6]

10. This Court, in the case of *Morales vs. Ponce Enrile*,[7] laid down the correct procedure for peace officers to follow when making an arrest and in conducting a custodial investigation, and which We reiterate:

"7. At the time a person is arrested, it shall be the duty of the arresting officer to inform him of the reason for the arrest and he must be shown the warrant of arrest, if any. He shall be informed of his constitutional rights to remain silent and to counsel, and that any statement he might make could be used against him. The person arrested shall have the right to communicate with his lawyer, a relative, or anyone he chooses by the most expedient means - by telephone if

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[6] T.S.N. of August 9, 1978, pp. 3-11.

[7] G.R. Nos. 61016 and 61107, April 26, 1983, 121 SCRA 538.

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possible - or by letter or messenger. It shall be the responsibility of the arresting officer to see to it that this is accomplished. No custodial investigation shall be conducted unless it be in the presence of counsel engaged by the person arrested, by any person on his behalf. or appointed by the court upon petition either of the detainee himself or by anyone on his behalf. The right to counsel may be waived but the waiver shall not be valid unless made with the assistance of counsel. Any statement obtained in violation of the procedure herein laid down. whether exculpatory or inculpatory, in whole or in part, shall be inadmissible in evidence."

11. There were no eyewitnesses, no property recovered from the accused, no state witnesses, and not even fingerprints of the accused at the scene of the crime. The only evidence against the accused is his alleged confession. It behooves Us therefore to give it a close scrutiny. The statement begins as follows:

"I. TANONG: Ipinagbibigay-alam ko sa inyo and inyong mga karapatan sa ilalim ng Saligang-Batas ng Pilipinas na kung inyong nanaisin ay maaaring hindi kayo magbigay ng isang salaysay, na hindi rin kayo maaaring pilitin o saktan at pangakuan upang magbigay ng naturang salaysay, na anuman ang inyong sasabihin sa pagsisiyasat na ito ay maaaring laban sa inyo sa anumang usapin na maaaring ilahad sa anumang hukuman o tribunal dito sa Pilipinas, na sa pagsisiyasat na ito ay maaaring katulungin mo ang isang manananggol at kung sakaling hindi mo kayang bayaran ang isang manananggol ay maaaring bigyan ka ng isa ng NBI. Ngayon at alam mo na ang mga ito nakahanda ka bang magbigay ng isang kusang-loob na salaysay sa pagtatanong na ito?

"SAGOT: Opo."

12. Such a long question followed by a monosyllabic answer does not satisfy the requirements of the law that the accused be informed of his rights under the Constitution and our laws. Instead there should be several short and clear questions and every right explained in simple words in a dialect or language known to the person under investigation. Accused is from Samar and there is no showing that he understands Tagalog. Moreover, at the time of his arrest, accused was not permitted to communicate with his lawyer, a relative, or a friend. In fact, his sisters and other relatives did not know that he had been brought to the NBI for investigation and it was only about two weeks after he had executed the

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salaysay that his relatives were allowed to visit him. His statement does not even contain any waiver of right to counsel and yet during the investigation he was not assisted by one. At the supposed re-enactment, again accused was not assisted by counsel of his choice. These constitute gross violations of his rights.

13. The alleged confession and the pictures of the supposed re-enactment are inadmissible as evidence because they were obtained in a manner contrary to law.

14. Trial courts are cautioned to look carefully into the circumstances surrounding the taking of any confession, especially where the prisoner claims having been maltreated into giving one. Where there is any doubt as to its voluntariness, the same must be rejected *in toto*.

15. Let a copy of this decision be furnished the Minister of Justice for whatever action he may deem proper to take against the investigating officers.

16. WHEREFORE, the judgment appealed from should be, as it is hereby, SET ASIDE, and another one entered ACQUITTING the accused Francisco Galit of the crime charged. Let him be released from custody immediately unless held on other charges. With costs *de oficio*.

17. SO ORDERED.

Fernando, C.J., Teehankee, Makasiar, Abad Santos, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., de la Fuente, Cuevas, and *Alampay, JJ.*, concur.

Aquino, J., no part.

SECOND DIVISION

[G.R. Nos. 60039-40. March 20, 1985]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, vs. PEDRO MABANSAG, VEDASTO MABANSAG, and TRANQUILINO ABEJUELA, *accused-appellants*.