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In view of the foregoing, the trial court erred in imposing the penalty of death. The crime was committed without the presence of any aggravating and mitigating circumstances.

WHEREFORE, the decision under automatic review is hereby affirmed, with the sole modification that the penalty imposed on the two accused is *reclusion perpetua*, with costs against said accused.

SO ORDERED.

Fernando C.J., Teehankee, Barredo, Makasiar, Antonio, Concepcion Jr., Guerrero, De Castro, and *Melencio-Herrera, JJ.*, concur.

Aquino, J., concurs in the result.

Santos and *Abad Santos, JJ.*, are on official trips abroad.

EN BANC

[G.R. No. L-35279. July 30, 1979]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **PORFIRIO DUMDUM, JR. and RENATO PERALTA,** *defendants whose death sentences are under review.*

SYLLABUS

1. CONSTITUTIONAL LAW; BILL OF RIGHTS; THE STRINGENT REQUIREMENTS THEREOF AS TO EXTRAJUDICIAL CONFESSIONS DURING CUSTODIAL INVESTIGATION ARE NOT APPLICABLE WHEN THE CONFESSION WAS TAKEN BEFORE EFFECTIVITY OF THE 1973 CONSTITUTION.—The stringent requirements of Section 20, Article IV of the Constitution as to extrajudicial confessions taken during

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custodial interrogation are not applicable to this case because the confessions were taken before the effectivity of the Constitution.

2. **REMEDIAL LAW; CRIMINAL PROCEDURE; JUDGMENT; IRREGULARITY COMMITTED BY THE TRIAL COURT IN IMMEDIATELY CONVICTING THE ACCUSED AFTER PLEADING GUILTY DOES NOT JUSTIFY THE SETTING ASIDE OF A JUDGMENT OF CONVICTION WHICH IS SUPPORTED BY EVIDENCE.**— The trial court committed an irregularity in pronouncing judgment on the two accused in open court immediately after they had pleaded guilty and then later on requiring the prosecution to present evidence. However, that irregularity does not justify the setting aside of the judgment of conviction which is supported by the judicial and extrajudicial confessions of the accused and by other evidence.

APPEARANCES OF COUNSEL

Acting Solicitor General Hector C. Fule, Assistant Solicitor General Conrado T. Limcaoco and *Solicitor Pio C. Guerrero* for plaintiff-appellee.

Jose Santillan, Jr. for defendants.

D E C I S I O N

PER CURIAM:

This is a review *en consulta* of the decision of the Circuit Criminal Court at Pasig, Rizal, convicting Porfirio Dumdum, Jr. and Renato Peralta of murder, sentencing each of them to death and ordering them to pay solidarily a total indemnity of ₱32,000 to the heirs of the deceased Dionisio Macadangdang (Criminal Case No. 961).

At about one o'clock in the afternoon of September 7, 1971, Macadangdang, 38, was stabbed in the national penitentiary at Muntinlupa, Rizal. He sustained three *incised wounds* located on the neck, right arm and left hand and eight *stab wounds*: four on the chest, one on the abdomen, one on the right shoulder

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and two in the lumbar region. The wounds on the chest, which affected his heart, lung, liver and stomach, were fatal. The victim died at the prison hospital.

Dumdum, 24, a native of Bacolod City, a prisoner serving sentence for theft, and Peralta, 21, a native of Iloilo City, a prisoner serving sentence for robbery, both members of the Happy Go Lucky gang, were investigated in the afternoon of the same day, September 7, 1971, in connection with the killing of Macadangdang.

They declared in their confessions that they waited for the victim and assaulted him when he passed in front of the Four Square Chapel of the New Bilibid Prison. The victim came from the hospital and was going to the vocational school. He fell into the gutter with a bladed weapon sticking on his back.

Dumdum stabbed Macadangdang with an improvised bladed weapon three times on the chest and abdomen. Peralta stabbed him five times also with an improvised double-bladed weapon which he left in the victim's back when he (Peralta) ran away. The weapons were presented in evidence.

The killing was planned an hour before it was perpetrated. The motive was revenge. Dumdum and Peralta purposed to avenge the stabbing of Lolito Fabella, the "mayor" of their gang, by the Tagalog group belonging to the Komando and Bahala gangs.

A special prosecutor filed on January 15, 1972 an information for murder against Dumdum and Peralta. It was alleged therein that the two accused while confined in prison and as confederates armed with improvised weapons treacherously assaulted Macadangdang who was unarmed and who died as a result of the assault. Premeditation was alleged as an aggravating circumstance.

At their arraignment, the accused were assisted by a counsel *de oficio*. The information was read to them in Tagalog, a dialect which they know. After they had pleaded guilty, the trial judge asked them separately whether they knew when

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they pleaded guilty that they would be punished. They answered in the affirmative.

They told the court that it was already a long time that they thought of pleading guilty, that they were not forced to make that plea and that due to remorse they had to admit the commission of the crime.

The trial judge reminded the two accused that under Article 160 of the Revised Penal Code he had no alternative but to impose upon them the death penalty. Dumdum said that he knew he would die in the electric chair. Peralta made the same admission.

Sometime after the arraignment, the trial court held a hearing for the presentation of the prosecution's evidence. The two investigators who took the confessions of the accused and the doctor who performed the autopsy testified. They were cross-examined by the counsel *de oficio*.

The prosecutor offered in evidence the two confessions, the necropsy report, the photographs of the wounds and the two improvised bladed weapons.

As already stated, the trial court sentenced the two accused to death. They did not appeal. Counsel *de oficio* in his brief argues that the trial court erred in convicting the accused on the basis of their plea of guilty. He contends that there was no showing that the accused had been properly arraigned and that they were aware of the gravity of the offense charged.

That contention has no merit. The trial court complied with its duty to see to it that the accused did not make any improvident plea of guilty. The judicial confessions were confirmed by the evidence of the prosecution which was sufficient for the conviction of the accused even if they did not plead guilty.

The guilt of the accused was established beyond reasonable doubt. The crime committed by them is *asesinato* qualified by treachery absorbing abuse of superiority. They deliberately perpetrated a surprise assault on the unarmed victim without giving him a chance to defend himself.

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Their confessions seem to indicate that the killing was aggravated by evident premeditation because they conceived of the assault at least one hour before its perpetration. Even if that circumstance is not taken into account, the penalty would still be death in view of the special aggravating circumstance of quasi-recidivism which justifies the imposition, in the maximum period, of *reclusion temporal* maximum to death, the penalty for murder.

For that same reason, the mitigating circumstances of plea of guilty and voluntary surrender to the authorities would not preclude the imposition of the death penalty.

The instant case is similar to *People vs. Santos and Vicente*, 105 Phil. 40, *People vs. Ala*, 109 Phil. 390, *People vs. Yamson and Romero*, 109 Phil. 793, *People vs. Yamson*, 111 Phil. 406, *People vs. Perete*, 111 Phil. 943, *People vs. Peralta*, 113 Phil. 201, and *People vs. Layson*, L-25177, October 31, 1969, 30 SCRA 92, where the accused prisoners killed their fellow prisoners and were sentenced to death on the basis of their plea of guilty.

The stringent requirements of Section 20, Article IV of the Constitution as to extrajudicial confessions taken during custodial interrogation are not applicable to this case because the confessions were taken before the effectivity of the Constitution (See *Magtoto vs. Manguera*, L-37201-02, *Simeon vs. Villaluz*, L-37424 and *People vs. Isnani*, L-38929, all decided on March 3, 1975, 63 SCRA 4). The accused herein did not impugn the voluntariness of their confessions.

The trial court committed an irregularity in pronouncing judgment on the two accused in open court immediately after they had pleaded guilty and then later on requiring the prosecution to present evidence.

However, that irregularity does not justify the setting aside of the judgment of conviction which is supported by the judicial and extrajudicial confessions of the accused and by other evidence.

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Trial judges are advised not to follow the erroneous, reverse procedure adopted by the trial judge in this case. It is not correct to sentence the accused to death immediately after he had pleaded guilty and then to require the prosecutor to present his evidence.

The evidence of the prosecution should be presented after the arraignment. The judgment should be rendered and promulgated *after* the fiscal has presented his evidence and after the trial court has ascertained that the defense is not presenting any evidence.

WHEREFORE, the trial court's judgment is affirmed. Costs *de oficio*.

SO ORDERED.

Barredo, Makasiar, Antonio, Aquino, Concepcion Jr., Fernandez, Guerrero, De Castro, and *Melencio-Herrera, JJ.*, concur.

Teehankee, J., concurs in a separate opinion.

Fernando, C.J., took no part.

Abad Santos and *Santos, JJ.*, are abroad.

TEEHANKEE, *J., concurring*:

I concur in the imposition of the death penalty, since as stated in the main opinion of Mr. Justice Aquino, the two accused with the assistance of counsel had pleaded guilty and their judicial confessions were confirmed by the evidence nevertheless presented by the prosecution which was sufficient *per se* for their conviction even if they had not pleaded guilty.

I write this brief opinion to maintain my dissenting view in the cases of *Magtoto vs. Manguera* (63 SCRA 4, 27) as against the *obiter dictum* in the main opinion that extrajudicial confessions taken during custodial interrogation before the effectivity of the 1973 Constitution from detained persons who

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are not assisted by counsel nor informed of their right to counsel and to remain silent are admissible in evidence thereafter.

Section 20 of the Bill of Rights (Article IV) of the 1973 Constitution explicitly provides (as against its one-sentence counterpart provision in the 1935 Constitution) that:

"SEC. 20. No person shall be compelled to be a witness against himself. Any person under investigation for the commission of an offense shall have the right to remain silent and to counsel, and to be informed of such right. No force, violence, threat, intimidation, or any other means which vitiates the free will shall be used against him. Any confession obtained in violation of this section shall be inadmissible in evidence."

As stated in my dissent in *Magtoto*, joining dissents of the late Chief Justice Castro and the now Chief Justice, "(T)here is *no room* for *interpretation* and the plain mandate of the Constitution expressly adopting the *exclusionary rule* as the only practical means of enforcing the constitutional injunction against such confessions obtained in violation of one's constitutional rights by outlawing their admission and thereby removing the incentive on the part of state and police officers to disregard such rights (in the same manner that the exclusionary rule bars admission of illegally seized evidence) should be strictly enforced," and "(T)he outlawing of all such confessions is plain, unqualified and *without distinction* whether the invalid confession be obtained *before* or *after* the effectivity of the Constitution."