

EN BANC

G.R. No. 231854 – PEOPLE OF THE PHILIPPINES, *Petitioner*, v. LEILA L. ANG, ROSALINDA DRIZ, JOEY ANG, ANSON ANG, and VLADIMIR NIETO, *Respondents*.

Promulgated: *Done. by the People's Court*

October 6, 2020

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SEPARATE CONCURRING OPINION

LEONEN, J.:

I concur with the *ponencia*. However, I write this separate opinion to emphasize a few points.

Under Rule 26 of the Rules of Civil Procedure, a request for admission may be served on the adverse party *at any time after the issues are joined*.

There is a joinder of issues in criminal proceedings upon the accused's entry of plea during arraignment.¹ The accused's plea controverts, and thus, puts at issue all the allegations in the information.²

However, a request for admission cannot be served on either the accused, owing to the right against self-incrimination, or on the prosecutor, for lack of personal knowledge. Nonetheless, it may be served on the private offended party's counsel with regard to the civil aspect.

Criminal actions are commenced either by filing a complaint or information in the name of the People of the Philippines.³ This is because a crime is an offense against the State, and not only against the directly injured party.⁴ Rule 110, Section 5 of the Rules of Criminal Procedure provides that “[a]ll criminal actions commenced by a complaint or information shall be prosecuted under the direction and control of the prosecutor.”

¹ *Corpus, Jr. v. Pamular*, G.R. No. 186403, September 5, 2018, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64644>> [Per J. Leonen, Third Division].

² *Id.*

³ *Pili, Jr. v. Resurreccion*, G.R. No. 222798, June 19, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65289>> [Per J. Caguioa, Second Division]; *Ha Datu Tawahig v. Lapinid*, G.R. No. 221139, March 20, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65145>> [Per J. Leonen, Third Division].

⁴ *Guy v. Tulfo*, G.R. No. 213023, April 10, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65234>> [Per J. Leonen, Third Division].

Thus, in criminal proceedings, the parties are the People of the Philippines, represented by the public prosecutor, and the accused.

Rule 26, Section 1 of the Rules of Civil Procedure provides the scope of matters that a party may request the adverse party to admit, namely: (1) “the *genuineness* of any material and relevant document described in and exhibited with the request”; and (2) “the *truth* of any material and relevant matter of fact set forth in the request.” The matters requested for admission must be within the *personal knowledge* of the person on whom the request was served, in accordance with the rule excluding hearsay evidence.

Hearsay evidence has been defined in *Miro v. Vda. de Erederos*,⁵ which provides:

It is a basic rule in evidence that a witness can testify only on the facts that he knows of his own personal knowledge, *i.e.*, those which are derived from his own perception. *A witness may not testify on what he merely learned, read or heard from others because such testimony is considered hearsay and may not be received as proof of the truth of what he has learned, read or heard.* Hearsay evidence is evidence, not of what the witness knows himself but, of what he has heard from others; it is not only limited to oral testimony or statements but likewise applies to written statements, such as affidavits.⁶ (Emphasis supplied, citations omitted)

It falls on the public prosecutor, as the State’s counsel, to ensure that the People’s rights are protected during trial. This includes the legal obligation to protect the offended party’s interest, at least insofar as the criminal aspect is concerned.⁷ A public prosecutor has the full discretion in prosecuting criminal cases, including whether, what, and whom to charge, along with what evidence to present.⁸ This discretion likewise extends to plea bargaining, stipulation of facts, and other matters enumerated in Section 2 of Republic Act No. 8493.⁹

Yet, the facts that public prosecutors know are those merely brought about by their inquiry or investigation. They file the information in court based on their own study and appreciation of the evidence at hand.¹⁰ They have *no personal knowledge* of the facts material to the actual commission of the crime, and thus, are not competent to answer a request for admission.

⁵ 721 Phil. 772 (2013) [Per J. Brion, First Division].

⁶ *Id.* at 790.

⁷ *Merciales v. Court of Appeals*, 429 Phil. 70, 79 (2002) [Per J. Ynares-Santiago, En Banc].

⁸ *Gonzalez v. Hongkong & Shanghai Banking Corp.*, 562 Phil. 841, 855 (2007) [Per J. Chico-Nazario, Third Division] citing *Webb v. De Leon*, 317 Phil. 758 (1995) [Per J. Puno, Second Division]; *Potot v. People*, 432 Phil. 1028 (2002) [Per J. Sandoval-Gutierrez, Third Division].

⁹ *People v. Judge Tac-an*, 446 Phil. 496, 505 (2003) [Per J. Callejo, Sr., Second Division].

¹⁰ *Securities and Exchange Commission v. Price Richardson Corp.*, 814 Phil. 589, 608 (2017) [Per J. Leonen, Second Division]; *Pilapil v. Sandiganbayan*, 293 Phil. 368, 378 (1993) [Per J. Nocon, En Banc].

However, with regard to the civil aspect of the criminal case, the private complainant is the real party in interest. *Banal v. Tadeo, Jr.*¹¹ explains that the criminal and civil aspects are rooted in the theory that a crime is both an offense against the State whose law was violated and a direct injury to the person offended by the act:

Generally, the basis of civil liability arising from crime is the fundamental postulate of our law that “Every man criminally liable is also civilly liable”. Underlying this legal principle is the traditional theory that when a person commits a crime he offends two entities namely (1) the society in which he lives in or the political entity called the State whose law he had violated; and (2) the individual member of that society whose person, right, honor, chastity or property was actually or directly injured or damaged by the same punishable act or omission. . . . While an act or omission is felonious because it is punishable by law, it gives rise to civil liability not so much because it is a crime but because it caused damage to another. Viewing things pragmatically, we can readily see that what gives rise to the civil liability is really the obligation and the moral duty of everyone to repair or make whole the damage caused to another by reason of his own act or omission, done intentionally or negligently, whether or not the same be punishable by law. In other words, criminal liability will give rise to civil liability only if the same felonious act or omission results in damage or injury to another and is the direct and proximate cause thereof. Damage or injury to another is evidently the foundation of the civil action. Such is not the case in criminal actions for, to be criminally liable, it is enough that the act or omission complained of is punishable, regardless of whether or not it also causes material damage to another.¹² (Citations omitted)

Thus, a request for admission as regards the civil aspect of the crime may be served by the accused on the private offended party,¹³ and the answer thereto may be made by the private offended party’s counsel.¹⁴

On the other hand, the accused’s right against compulsory self-incrimination precludes the service of a request for admission on them.¹⁵

One’s right against self-incrimination is enshrined in Article III, Section 17 of the 1987 Constitution, which reads: “No person shall be compelled to be a witness against himself.” This Court explained the extent of this right in *Rosete v. Lim*.¹⁶

The right against self-incrimination is accorded to every person who gives evidence, whether voluntary or under compulsion of subpoena, in any civil, criminal or administrative proceeding. The right is not to be

¹¹ *Banal v. Tadeo, Jr.*, 240 Phil. 327 (1987) [Per J. Gutierrez, Jr., Third Division].

¹² *Id.* at 331.

¹³ See *Briboneria v. Court of Appeals*, 290-A Phil. 396, 406–408 (1992) [Per J. Padilla, First Division]. See also *Duque v. Court of Appeals*, 433 Phil. 33 (2002) [Per J. Austria-Martinez, First Division].

¹⁴ See *PSCFC Financial Corp. v. Court of Appeals*, 290-A Phil. 636 (1992) (Resolution) [Per J. Bellosillo, First Division].

¹⁵ Ponencia, pp. 16–17.

¹⁶ 523 Phil. 498 (2006) [Per J. Chico-Nazario, First Division].

compelled to be a witness against himself. It secures to a witness, whether he be a party or not, the right to refuse to answer any particular incriminatory question, *i.e.*, one the answer to which has a tendency to incriminate him for some crime. However, the right can be claimed only when the specific question, incriminatory in character, is actually put to the witness. It cannot be claimed at any other time. It does not give a witness the right to disregard a subpoena, decline to appear before the court at the time appointed, or to refuse to testify altogether. The witness receiving a subpoena must obey it, appear as required, take the stand, be sworn and answer questions. It is only when a particular question is addressed to which may incriminate himself for some offense that he may refuse to answer on the strength of the constitutional guaranty.¹⁷ (Citation omitted)

However, Rule 115, Section 1 of the Rules of Criminal Procedure accords the accused in a criminal prosecution the right “[t]o be exempt from being compelled to be a witness against [themselves].” The accused are protected under this Rule from testimonial compulsion or any legal process to extract an admission of guilt against their will. As this Court explained in *People vs. Ayson*:¹⁸

An accused “occupies a different tier of protection from an ordinary witness.” Under the Rules of Court, in all criminal prosecutions the defendant is entitled among others —

- 1) to be exempt from being a witness against himself, and
- 2) to testify as witness in his own behalf; but if he offers himself as a witness he may be cross-examined as any other witness; however, his neglect or refusal to be a witness shall not in any manner prejudice or be used against him.

The right of the defendant in a criminal case “to be exempt from being a witness against himself” signifies that he cannot be compelled to testify or produce evidence in the criminal case in which he is the accused, or one of the accused. He cannot be compelled to do so even by *subpoena* or other process or order of the Court. He cannot be required to be a witness either for the prosecution, or for a co-accused, or even for himself. In other words — unlike an ordinary witness (or a party in a civil action) who may be compelled to testify by *subpoena*, having only the right to refuse to answer a particular incriminatory question at the time it is put to him — the defendant in a criminal action can refuse to testify altogether. He can refuse to take the witness stand, be sworn, answer any question. And, as the law categorically states, “his neglect or refusal to be a witness shall not in any manner prejudice or be used against him.”¹⁹ (Citations omitted)

After the information is filed in court, the right against self-incrimination imposes an absolute prohibition against any kind of inquiry from the accused. An accused on trial in a criminal case may refuse, not only to answer incriminatory questions, but also to take the witness stand. Neglect or refusal to be a witness will not prejudice or be used against the accused.

¹⁷ Id. at 511.

¹⁸ 256 Phil. 671 (1989) [Per J. Narvasa, First Division].


¹⁹ Id. at 685–686.

Rule 26 seeks to obtain admissions from the adverse party regarding the genuineness of relevant documents or the truth of facts through requests for admissions. It “contemplates of interrogatories that would *clarify and tend to shed light on the truth or falsity of the allegations* in a pleading. That is its primary function. It does not refer to a mere reiteration of what has already been alleged in the pleadings.”²⁰

Considering its purpose, a request for admission cannot be served on the accused in a criminal proceeding, owing to the protection accorded by the Constitution and rules against self-incrimination.

ACCORDINGLY, I vote to **GRANT** the Petition.


MARVIC M.V.F. LEONEN
Associate Justice

Certified True Copy

ANNA-LI R. PAPA-GOMBIO
Deputy Clerk of Court En Banc
OCC En Banc, Supreme Court

²⁰ *Concrete Aggregates Corp. v. Court of Appeals*, 334 Phil. 77, 80 (1997) [Per J. Bellosillo, First Division].