

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GEORGE DAENG AND ROLANDO CASTILLO, DEFENDANTS-APPELLANTS.

G.R. No. L-44187. November 12, 1981

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

MANDATORY REVIEW of the judgment of the Circuit Criminal Court at Pasig, Rizal, in Case CCC-VIII-847-Rizal imposing the death penalty on George Daeng and Rolando Castillo the dispositive portion of which reads:

"WHEREFORE, finding the accused, George Daeng and Rolando Castillo, both GUILTY, be-yond reasonable doubt, of the crime of Murder, under Article 248 of the Revised Penal Code, as charged in the information, the Court hereby sen-tences each one of them to suffer the penalty of DEATH; to indemnify the heirs of the offended party the amount of P12,000.00; to pay the amount of P5,000.00 as moral damages and another P5,000.00 as exemplary damages; and to pay their proportionate shares of the costs.

"Pursuant to Section 32, Rule 138 of the New Rules of Court, Atty. Suisito Sardillo, who was appointed as counsel de oficio for the accused, is hereby ordered compensated in the amount of P500.00 subject, however, to the availability of funds.

"However, the Court considers the mitigating circumstance of plea of guilty of said accused and hereby recommends, pursuant to Article 5 of the Revised Penal Code, to the Chief Executive, the President of the Philippines, thru the Dept. of Justice, that the penalty imposed upon the accused be commuted to that of Reclusion Perpetua.

"SO ORDERED."[1]

This is, to recall the antecedents of this case, the third time that We are called upon to review the imposition of the death penalty on George Daeng and Rolando Castillo.

In an information filed with the Court a quo on June 18, 1971, appellants Daeng and Castillo, together with Conrado Bautista and Gerardo Abuhin, were charged with the crime of murder allegedly committed thus -

"That on or about December 13, 1970, in the New Bilibid Prisons, Muntinlupa, Rizal, Philippines, and within the jurisdiction of this Honorable Court, the said accused while then confined at the said institution, conspiring, confederating and acting to-gether and each armed with improvised deadly weapons, did then and there wilfully, unlawfully and feloniously assault and wound therewith one Basilio Beltran, No. 71495-P, another convicted prisoner serving final sentence in the same institution, then in the process of serving the accused breakfast, inflicting upon him multiple stab wounds, while then unarmed and unable to defend himself from the attack launched by the accused, as a result of which the said Basilio Beltran died instantly.

"That the offense when committed by the accused was attended by the qualifying circumstance of treachery and the generic aggravating circumstance of evident premeditation and obvious ungrate-fulness.

"Contrary to law."[2]

On June 29, 1971, the trial court, "in view of the spontaneous and voluntary confession of guilt of the accused", imposed the death penalty on George Daeng, Rolando Castillo, Conrado Bautista and Gerardo Abuhin.[3] We reviewed this decision on automatic appeal and, upon Our finding that the four accused were not at all made to understand and appreciate the real nature and consequences of their decision to enter a plea of guilty, the decision a quo was set aside and the case was remanded to the criminal court for a new arraignment of the four accused.[4]

As We have ruled, George Daeng, Rolando Castillo, Conrado Bautista and Gerardo Abuhin were arraigned on March 10, 1973 and all four pleaded not guilty. However, before the prosecution could rest its case, George Daeng and Rolando Castillo withdrew their plea of not guilty and entered a plea of guilty. Based on that plea of guilty, the court a quo, on September 1, 1973, sentenced George Daeng to death. In a separate decision dated September 15, 1973, Rolando Castillo was likewise convicted and the death penalty was imposed on him.[5]

What next ensued was narrated by the decision rendered by the trial court on April 1, 1976. It appears there that the two prior decisions of September, 1973 were elevated to and then remanded anew by Us to the criminal court. The pertinent portion of this decision reads that -

"On September 1, and 15, 1973, the two accused were respectively sentenced by the Court to Death and the records were forwarded to the Supreme Court for automatic review. However, pursuant to the doctrine laid down by the Supreme in the case of *People vs. Epifanio Flores*, the Highest Tribunal remanded the records of this case to the Court of origin for mandatory presentation of evidence."[6]

During that third arraignment of George Daeng and Rolando Castillo which took place on February 19, 1976, the two, once more entered a plea of guilty. To substantiate the charge of murder, the prosecution presented Ricardo Ibarola, medico-legal officer of the National Bureau of Investigation; Jesus Tumagan, prison guard at the New Bilibid Prison, Muntinlupa, Rizal; Ignacio Ferrer, supervising prison guard; and Armando Miranda, another prison guard who was an eyewitness to the killing of the victim Basilio Beltran. Thereafter, Daeng and Castillo were again convicted of murder. And, on a finding that the aggravating circumstances of treachery, evident premeditation and obvious ungratefulness attended the commission of the defense, coupled with the fact that the accused have committed a felony while serving sentence by virtue of a final judgment, the court a quo imposed the death penalty on the accused. This decision, with the abovesited dispositive portion, is now under review. Parenthetically, and harking back to the arraignment done on March 10, 1973 pursuant to Our ruling in G.R. No. L-34091, *People vs. George Daeng, et al.*, trial proceeded against Conrado Bautista and Gerardo Abuhin after they both pleaded not guilty. Both were, thereafter, convicted and sentenced to death by the trial Court. And on July 25, 1975, We affirmed the death penalty in G.R. No. L-38624, entitled *People vs. Bautista, et al.*

The appellants herein present the following:

"ASSIGNMENT OF ERRORS

"FIRST ASSIGNED ERROR:

THE TRIAL COURT ERRED IN DISREGARDING THE MAN-DATE OF THIS HONORABLE COURT DECREED IN G.R. NO. L-34091 THAT THE NEW TRIAL GRANTED THE ACCUSED BE CONDUCTED IN ACCORDANCE WITH LAW AND CONSISTENTLY WITH THE VIEWS HEREIN EXPRESSED.

"SECOND ASSIGNED ERROR:

THE TRIAL COURT ERRED IN RULING THAT THE COM-MISSION OF THE CRIME WAS ATTENDED WITH THE QUALIFY-ING CIRCUMSTANCE OF TREACHERY.

"THIRD ASSIGNED ERROR:

THE TRIAL COURT ERRED IN RULING THAT THE CRIME WAS ATTENDED WITH EVIDENT PREMEDITATION.

"FOURTH ASSIGNED ERROR:

THE TRIAL COURT ERRED IN RULING THAT THE CRIME WAS COMMITTED WITH OBVIOUS UNGRATEFULNESS.

"FIFTH ASSIGNED ERROR:

THE TRIAL COURT ERRED IN FINDING THAT THE ACCUSED COMMITTED THE CRIME WHILE SERVING SENTENCE BY VIRTUE OF A FINAL JUDGMENT.

"SIXTH ASSIGNED ERROR:

THE TRIAL COURT ERRED IN RULING THAT THE ACCUSED ARE GUILTY OF THE CRIME OF MURDER AND IN IMPOSING THE DEATH PENALTY."

We do not find any reversible error on the part of the trial court.

The appellants cite the failure of the trial court to inquire from the accused their version of the incident as directed by Us in G.R. No. L-34091 and argue thereby that the judgment under review should be nullified and the case again remanded to the lower court.

The transcript of stenographic note does show that the pro-cedure outlined in G.R. No. L-34091 was not followed to the letter. But the appellants' insistence on a remand because of the cited failure on the part of the trial judge overlooks the realities that -

(1) in their sworn statements Exhibits "B" and "C" they unequivocally, and in detail, admitted having stabbed the deceased while the latter was holding their breakfast ration;[7]

(2) the regularity in the taking of the sworn statements of George Daeng and of Rolando Castillo, both of which remained unrefuted and undenied till the end of the proceedings, was proven, respectively, by the testimonies of prison guard Jesus Tumagan and supervising prison guard Ignacio Ferrer;[8]

(3) eyewitness Armando Miranda positively testified that the appellants and the two other accused rushed out and "without provocation they stabbed inmate Basilio Beltran" who was then bringing breakfast to them, thereby confirming the details of the sworn statements of the ap-pellants.[9]

It cannot be denied then that the circumstances attending the commission of the crime charged against the appellants were definitely established. From the evidence on record, the guilt and culpability of the accused may be gleaned. These are the primary objectives of the requirement enunciated in G.R. No. L-34091 that the trial Judge direct searching questions to the appellants. And the objectives having been attained in the case at bar, a remand and arraignment for that purpose would merely be a dilatory, nay useless, rite.

More than this, the appellants, as We have priorly noted, have thrice pleaded guilty to the murder charge. Their case had been sent back twice to the trial court for purposes of arraignment, and in both instances they were,

after holding on to their original plea, given the death sentence. While there might have been, in the first instance, some doubts regarding the appellants appreciation of the nature and consequence of a plea of guilty, We are convinced that when they entered the same plea for the third time, they did so wholly aware of the large probability of a verdict of death. The lesson learned from their past arraignments was then fresh and recent. It was ignored. We do not see this as a continuing misapprehension of the situation that they were in. Rather, We take it as a carefully considered acceptance of guilt.

Appellants, however, submit that they committed the lesser crime of homicide on the argument that its commission was attended neither by treachery, by evident premeditation nor by obvious un-gratefulness.

After having carefully considered the contents of the sworn statements of George Daeng and Rolando Castillo and the corroborat-ing testimony and sworn statement of eyewitness Armando Miranda, We found it fully established that: -

At about 6:15 o'clock in the morning of December 13, 1970 pri-son guard Armando Miranda was with Inmate Cadet Basilio Beltran and one Mallari who were then carrying the breakfast ration for the pri-soners in Dormitory 8-C-2. When he opened the door of the dormitory, George Daeng and Rolando Castillo together with Conrado Bautista and Gerardo Abuhin, all armed with improvised deadly weapons suddenly rushed out from their cell and, without provocation, stabbed to death IC Basilio Beltran. George Daeng confessed in his sworn state-ment that he was the first one who stabbed the deceased hitting the latter in the stomach while Rolando Castillo declared that he stabbed the victim when the latter was lying on his back "nakatihaya na po sa pupa sa may harapan ng 8-C". Daeng stated that they killed Bel-tran because they were being threatened (pagbabanta) by Beltran and the other inmate cadets. Rolando Castillo narrated that the inmate cadets used to appropriate for themselves part of the cigarettes, soap and money given to them by their friends and that he and his co-inmates used to pay for the call slips delivered to them by the inmate cadets during the times that they had visitors.

The necropsy report of Dr. Jose V. Villasin, Medico-Legal Offi-cer of the NBI shows that the victim sustained twelve stab wounds at the chest, back, abdomen, left shoulder and arms.[10] Eyewitness Miranda, during the trial, positively identified George Daeng and Rolando Castillo to be two of the four persons who killed Beltran.

With the foregoing facts then, We see no reason to depart from the findings in *People v. Bautista, et al.*, G.R. No. L-38624, July 25, 1975, where We affirmed the death sentence imposed on Conrado Bautista and Gerardo Abuhin, the two other persons originally charged with murder together with the herein appellants.

Thus: ?

"The trial court correctly considered the qualify-ing circumstance of treachery in the commission of the crime of murder. It was conclusively proven that the accused in a sudden, concerted and unprovoked act, all of them being armed with improvised deadly weapons, stabbed the victim to death after pushing their cell door open, threatening and throwing off-guard Miranda when the victim who was holding in both hands the bread and coffee intended for the breakfast of the assailants was not in a position to defend himself from the un-expected assault.

"As to the existence of evident premeditation, it was established by the following circumstances: (1) the sudden concerted attack, perpetrated and calculated to throw off-guard the intended victim as he was in the act of giving food to the assailants, which attack necessarily must have been planned; (2) that all of the accused were armed with improvised deadly weapons which they were not supposed to possess and which they must have secretly prepared for a long time for commit-ting the crime; and (3) the admission on the part of the accused in their sworn statements that they killed the victim by 'attacking first' because they had heard that the members of the rival gang would liquidate them, leading to the conclusion that the accused must have planned how to counteract the supposed attack of the rival gang by literally beating the latter to the draw.

"The aggravating circumstance of obvious ungrate-fulness was present as the victim was suddenly attacked while in the act of giving the assailants their bread and coffee for breakfast. Instead of being grateful to the victim, at least by doing him no harm, they took advantage of his helplessness when his two arms were used for carrying their food, thus preventing him from defending himself from the sudden attack."

Appellants also submit that Art. 100 of the Revised Penal Code should not be applied to them since there is "no evidence on records as (to) the exact status of the accused as prisoners at the New Bilibid Prison." This argument need not detain Us long because, as pointed out by the Solicitor General, We have made a definitive finding in *People vs. Bautista, et al.* that all the four who were accused of killing Basilio Beltran were, at the time of the commission of the crime, serving sentence by virtue of a final judgment. Then too, George Daeng stated in his sworn state-ment that he was serving sentence for illegal possession of fire-arms and Castillo affirmed that he was serving sentence for "robbery hold-up."

Having committed, therefore, the crime of murder, as the kill-ing was attended by the qualifying circumstance of treachery, at a time when the appellants were both serving sentences by virtue of a final judgment, the penalty of death was properly imposed on appel-lants George Daeng and Rolando Castillo. However, for lack of neces-sary votes to sustain the imposition of the death penalty, the penalty imposed upon the appellants is reduced to reclusion perpetua.

WHEREFORE, the judgment of conviction is AFFIRMED. But, the penalty imposed upon the appellants should be, as it is hereby, reduced to reclusion perpetua.

No costs.

SO ORDERED.

Fernando, C.J., Teehankee, Makasiar, Aquino, Fernandez, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Barredo, J., see his brief concurrence.

[1] Rollo, pp. 13-14.

[2] *Ibid.*, p. 2.

[3] Original Record, pp. 6-8.

[4] *People vs. George Daeng, et al.*, G.R. No. L-34091, January 30, 1973.

[5] Original Record, pp. 175-178; pp. 211-213.

[6] *Ibid.*, p. 323.

[7] x x x x x x x x

3. T - Alam mo ba ang dahilan kung bakit kita sinisiyasat ngayon dito sa tanggapan ng Investigation Section?

S - Opo, Sir, tungkol po sa nasaksak naming isang IC (Inmates Cadet) o bilanggong katulad ko sa harap ng building 8.

4. T - Kailan ninyo sinaksak siya?

S - Ngayong ika-13 ng Desyembre 1970.

5. T - Humigit kumulang anong oras ninyo sinaksak?

S - Mga bandang alas sais ng umaga (6:00 A.M.)

6. T - Sino ang tinutukoy mong IC's o bilanggong sinaksak ninyo?

S - Hindi ko po kilala sa pangalan ngunit kilala ko sa mukha lamang.

7. T - Sino sino ang kasama mong sumaksak sa bilanggong iyon?

S - Sina George Daeng, Gerardo Abuhin, at si Conrado Bautista.

8. T - Mayroon ba kayong kinaaanibang pangkat?

S - Ang aming pong pangkat ay Sigue-Sigue Sputnik.

9. T - Nalalaman mo ba kung anong pangkat ang sinaksak ninyo?

S - Ang pagkakaalam ko sa pangkat niya ay kalaban ng Manila Boy.

10. T - Bakit ninyo siya sinaksak?

S - Noong mga nakaraang araw kung nagpapadala ang mga kasamahan namin na taga building 4 ng mga cigarillo, sabon, at pera ay binabawasan ng mga IC or inmate cadet dahil sila po ang nakabukas ang brigada kung kaya sila ang aming inuutusan at ang dumi nila sa itaas ng aming brigada ay pumapasok sa brigada namin at kung kami ay dinadalaw ay hinihingan kami ng pera para sa upa nila bilang pagdadala ng calling slip at kapag hindi namin binigyan ay galit pa sila.

11. T - Bakit ang mga Inmate Cadet (IC) ay nakabukas ang kani-lang brigada samantalang kayo naman ay nakasara?

S - Sapagkat ang mga IC o inmate cadet ay gumaganap na Trustee Police sa loob ng prison compound samantalang kami ay nasa bartolina bilang safekeeping at under punish-ment.

12. T - Saang iksaktong lugar ninyo sinaksak ang tinutukoy mong IC (Inmate Cadet)?

S - Doon po namin sinaksak sa may harapan ng bartolina 8-C sa may tapat ng 8-A-2 sa may hagdanan sa ibaba.

13. T - Sino ang unang sumaksak sa inyo?

S - Hindi ko po alam sa amin kung sino ang unang sumaksak sapagkat bagong gising palang ako at yong kasama kong tatlo ay kasalukuyang sinasaksak na yong IC bago ako nanaksak at sinundan sila.

14. T - Saan nanggaling ang inyong sinaksak na IC (Inmate Cadet)?

S - Ang pagkakaalam ko ay escort ng mga nagraranso (ration tenders) ng pagkain sa lahat ng brigada sa loob ng prison compound.

15. T - Papaano nabuksan ang inyong brigada?

S - Oras ng pag-aalmusal o agahan naming mga bilanggo ng dumating ang aming tinapay at kape ay binuksan ang aming pintuan ng aming tanod o keeper at sabay ang aming pag-rushed out sa aming pintuan.

16. T - Nang kayo ay nag-rushed-out ano ang ginawa ng inyong tanod o Keeper or mga Keeper?

S - Ang ginawa ng aming keeper ay pumito ng mga tatlong beses at kami ay hinaharangan sa may pintuan para

kami makalabas.

17. T - Natatandaan mo ba kung sino ang inyong keeper?

S - Hindi po.

18. T - May mga matalas ako dito sa aking lamisa, ituro mo sa akin ang tunay mong matalas na ginamit mong ipinanaksak doon sa IC (Inmate Cadet) na pinatay ninyo?

S - Ito po. (the declarant pointing to the improvise deadly weapon he used during the stabbing incident.)

19. T - Noong saksakin mo ang IC o Inmate Cadet na nabanggit papaano ang kanyang position?

S - Nakatihaya na po sa lupa sa may harapan ng 8-C.

20. T - Ilang beses mo siyang sinaksak?

S - Dalawang beses po.

21. T - Saan parte ng katawan mo siya tinamaan?

S - Dalawang beses ko siya sinaksak sa tiyan.

x x x x x x x x x x

3. T - Alam mo ba ang dahilan kung bakit kita sinisiyasat?

S - Oho dahil ho sa pagkakapanaksak namin.

4. T - Sino ang sinaksak ninyo?

S - Hindi ko kilala.

5. T - Sinong namin ang tinutukoy mo?

S - Sina bilanggong CONRADO BAUTISTA, (pris. Conrado Bautista, No. 71055-P), ROLANDO CASTILLO (pris. Rolando Castillo, No. 31087-P) at iyon (Declarant pointing to pris. Gerardo Abuhin, No. 61409-P).

6. T - Saang Lugar ninyo sinaksak ang taong sinaksak ninyo?

S - Sa pintuan ng brigada 8-C sa silong ng hagdan ng I-C.

7. T - Anong oras ninyo siya sinaksak?

S - Mga bandang ala 5:00 ng umaga.

8. T - Bakit ninyo sinaksak ang tao?

S - Kaya po namin sinaksak ang namatay dahil po sa pagbabanta nila sa amin.

9. T - Ano ang ginagawa nang namatay sa pintuan ng Dormitoryo ninyo?

S - Naghatid ho nang tinapay na pagkain namin para almusal.

10. T - Sino ang nag-utos sa inyo na patayin ninyo ang namatay?

S - Wala po.

11. T - Saan galing ang matalas na ginamit mong panaksak?

S - Dala ko galing sa brigada 4.

12. T - Nasaan na ang ginamit mong matalas?

S - Iyan po sir (Declarant pointing to an improvised ice-pick more or less 10 inches long.)

13. T - Sa inyong apat sino ang unang sumaksak sa namatay?

S - Ako po sir.

14. T - Saan mo unang sinaksak ang namatay?

S - Sa tiyan po.

15. T - Ilang ulit mo sinaksak ang namatay?

S - Marami ho hindi ko na matandaan.

16. T - Nang una mong saksak ang namatay ano ang ginawa niya?

S - Naka tayo may dala-dalang tinapay.

x x x x x x x x

[8] Original Record, t.s.n., pp. 19-33; pp. 38-53.

[9] Ibid., pp. 53-58.

[10] Original Record, pp. 161-162.

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