

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. INOCENCIO BUSA ALIAS INO, DEFENDANT-APPELLANT.

G.R. No. L-32047. June 25, 1973

Ponente: RUIZ CASTRO, J.

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RUIZ CASTRO, J.:

The defendant-appellant Inocencio Busa, alias Ino, was indicted, together with two other accused (Marcelo Elardo and Igmedio Cabacha), for the crime of robbery with homicide in criminal case 4326 before the Court of First Instance of Surigao del Norte. The information recites, in substance, that on October 1, 1969, in the municipality of Surigao, Surigao del Norte, the defendant Busa, in conspiracy with his two co-accused, robbed one Romeo Olige of the sum of P125 and a pair of rubber shoes; that on the occasion of the said robbery, Olige was stabbed to death; and that the offense was attended by the "aggravating circumstances of treachery and use of superior strength, and nocturnity."

Upon arraignment on November 27, 1969, the defendant Busa, with the assistance of counsel de oficio, pleaded guilty to the charge; his two co-accused entered a negative plea. Subsequently, or on March 31, 1970, the trial court rendered its decision. Appreciating the lone mitigating circumstance of the voluntary plea of guilty against the three aggravating circumstances alleged in the information, the court sentenced Busa to the extreme penalty of death.

We are called upon to review the said decision on automatic appeal.

The Syquia Law Office, counsel de oficio for Busa, asks that the judgment of the trial court be set aside on the ground that the defendant's plea of guilty was improvidently entered. Two related questions are posed: first, whether the defendant fully understood the precise nature and effects of his plea, and second, whether the trial court took adequate steps to ascertain this fact.

We have examined the record of this case, and, verily, we are disturbed by the procedure followed by the trial court in its admission of the plea of guilty of the defendant. No stenographic notes were taken of the proceedings,[1] and the decision refers to the plea but briefly as follows:

"Upon being arraigned of the aforequoted information which was read and translated in the Visayan dialect which all the accused speak and understand, and with the assistance of their counsel de oficio, Atty. Rodrigo C. Matutina, accused Inocencio Busa alias Ino, freely, voluntarily and spontaneously entered the plea of guilty, while the two other accused, Marcelo Elardo and Igmedio Cabacha, entered the plea of not guilty."

The extrajudicial confessions of the defendant Busa and his two co-accused, while attached to the record transmitted to us, are not shown to have been offered in evidence and do not appear to have been considered by the trial court in the preparation of its decision.

In his manifestation and motion in lieu of appellee's brief, the Solicitor General, appearing for the People of the Philippines, admits "that there is truth in the allegation of appellant that there is no record of the proceedings had

in the trial court other than what is stated in the decision now appealed from concerning his arraignment and plea of guilty." [2]

We find the procedure adopted by the trial court in the admission of the plea of guilty of the defendant Busa miserably short of the degree of guarded care with which trial courts should consider the plea of guilty of an accused.

It should always be remembered that a judicial confession of guilt embraces all the material facts alleged in the information, including all the aggravating circumstances listed therein. [3] Any mistake or misunderstanding on the part of an accused, especially in capital offenses, as to the full meaning of his plea may thus prove irreversibly fatal to him. The instances are many where this Court has stepped in to point out probable misapprehension by the accused of his plea of guilty. In *U.S. vs. Agcaoili*, [4] the trial judge admonished the accused that he could withdraw his plea of guilty if he wanted to, but the latter resisted the suggestion, commenting that "he was responsible for the death of the two persons mentioned in the information." Following a judgment of conviction, this Court reviewed the case and expressed the view that while the accused undoubtedly intended to confess that he took the lives of the persons mentioned in the information, "he did not intend to admit that he committed the offense with the aggravating circumstances mentioned therein." In *People vs. Solacito*, [5] the fact that the accused answered affirmatively to the trial court's query as to "whether he understands the meaning of a plea of guilty and whether he is admitting all the material averments in the information," did not render the proceedings flawless. These questions are couched in so technical a way that the ordinary layman may not fully comprehend their meaning.

Thus, this Court has repeatedly stated that trial judges "must refrain from accepting with alacrity an accused's plea of guilty, for while justice demands a speedy administration, judges are duty bound to be extra solicitous in seeing to it that when an accused pleads guilty he understands fully the meaning of his plea and the import of an inevitable conviction." [6]

Moreover, since there is no law prohibiting the taking of testimony after a plea of guilty, where a grave offense is charged, this Court has deemed such taking of testimony the prudent and proper course to follow for the purpose of establishing the guilt and the precise degree of culpability of the defendant. [7] This procedure, when conscientiously applied and followed, will leave no room for doubt that there was mistake or misunderstanding on the part of the accused as to the nature of the charges to which he pleads guilty.

Further, the taking of testimony, notwithstanding a plea of guilty, is essential to the fulfillment by this Court of its duty of review of automatic appeals from death sentences. To illustrate this point, in *U.S. vs. Jamad*, [8] the testimonies received by the trial court following the plea of guilty by the accused enabled this Court to modify the judgment by striking down the two aggravating circumstances of evident premeditation (*premeditacion conocida*) and abuse of confidence alleged in the information. This Court's findings showed that the accused could not have intended their inclusion in his plea of guilty. Surely, records which merely sketchily declare that the information was read to the accused and that the latter "freely, voluntarily and spontaneously entered the plea of guilty," do not tell the whole story. They deny us full opportunity to review the cases fairly and intelligently.

In sum and substance, it will not suffice, under the law providing for compulsory review of death sentences by this Court, [9] that the accused's plea of guilty is admitted and, on the basis thereof, that judgment is summarily rendered. The essence of judicial review in capital offenses is that while society allows violent retribution for heinous crimes committed against it, it always must make certain that the blood of the innocent is not spilled, or that the guilty are not made to suffer more than their just measure of punishment and retribution. Thus, a judgment meting out the penalty of death is valid only if it is susceptible of a fair and reasonable examination by

this Court.

ACCORDINGLY, the decision appealed from is set aside, and this case is hereby remanded to the court a quo for a new arraignment of the defendant Inocencio Busa alias Ino, with aid of counsel, and consistently with the views herein expressed. Costs de oficio.

Makalintal, Acting C.J., Zaldivar, Fernando, Teehankee, Barredo, Makasiar, and Esguerra, JJ., concur.
Antonio, J., did not take part.

[1] Per letter of transmittal of record of the Clerk of Court of the Court of First Instance of Surigao del Norte dated April 15, 1970.

[2] Appellee's brief, p. 4.

[3] People vs. Arpa, L-26789, April 25, 1969, 27 SCRA 1037, 1042, citing People vs. Boyles, L-15308, May 19, 1964, 11 SCRA 88.

[4] 31 Phil. 91.

[5] L-29209, August 25, 1969, 29 SCRA 61.

[6] People vs. Apduhan, Jr., L-19491, August 30, 1968, 24 SCRA 798; See also People vs. Matias, et al., L-35384, November 28, 1972, and the citations under footnote 1 thereof.

[7] U.S. vs. Talbanos, 6 Phil. 541; U.S. vs. Rota, 9 Phil. 426; U.S. vs. Agcaoili, 31 Phil. 91; U.S. vs. Jamad, 37 Phil. 305; People vs. Bulalake, 106 Phil. 767; People vs. Espiña, L-33028, June 30, 1972, 45 SCRA 614; People vs. Simeon, L-33730, September 28, 1972.

[8] Supra.

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