

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO GONZALES ALIAS RUDY CRAZY, ROMEO LACHICA ALIAS
JIMMY ALIAS RINGO, FRANCISCO MENSORADO, ROGELIO ESPINOSA
ALIAS TIGA...**

G.R. No. L-33303. November 21, 1980

Ponente: AQUINO, J.

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AQUINO, J.:

The seven accused herein, all convicts serving sentences in the Davao Penal Colony at Panabo, Davao del Norte, together with three other prisoners named Alfonso Sigin, Olegario Madola and Ernesto Aguiluz, were charged in an information dated October 13, 1969 with having committed on June 22, 1969 the crimes of "double murder and double frustrated murder" for having killed prisoners Antonio Argañoza and Ernesto de la Cruz and assaulted prisoners Franklin Unson and Reynaldo Chan who did not die due to timely medical attendance.

Treachery, evident premeditation and abuse of superiority were alleged as aggravating circumstances (Criminal Case No. 12071, CFI of Davao, Tagum Branch).

At the arraignment on November 7, 1969 the said seven accused, assisted by their counsel de oficio, pleaded guilty after the information was read to them. Each one of them manifested that he understood the information.

Not content with that manifestation, the trial court asked individually each accused whether he understood the information. They all replied in the affirmative. The court also asked each one of them whether he pleaded guilty with the knowledge of the "consequence" of such a plea. The seven accused also answered in the affirmative.

Accused Hardelito Repil informed the court that the other three accused, Sigin, Madola and Aguiluz, had nothing to do with the offenses alleged in the information. The court advised Repil to testify for the said accused at the trial. The three other accused pleaded not guilty.

After the arraignment, the trial court announced in open court on that same day, November 7, 1969, its judgment. The seven accused, who pleaded guilty, were convicted of double murder and double frustrated murder. Each of them was sentenced to two death penalties for the double murder and they were ordered to pay solidarily to each set of heirs of the deceased victims, Argañoza and De la Cruz, an indemnity of twelve thousand pesos.

Presumably, the trial court regarded treachery as the qualifying circumstance. Plea of guilty as a mitigating circumstance offset abuse of superiority. The trial court overlooked evident premeditation as a generic aggravating circumstance.

For the two frustrated murders, wherein Unson and Chan were the victims, each of the seven accused was sentenced to two identical indeterminate penalties consisting of ten years of prision mayor as minimum to seventeen years and four months of reclusion temporal as maximum (without any indemnity being imposed).[*]

In this review en consulta of the imposition of the death penalty for the "double murder", counsel de oficio

contends that two reclusion perpetuas should be imposed for the two murders and that the maximum range of the indeterminate penalty for each frustrated murder should be fourteen years and eight months of reclusion temporal and not seventeen years and four months.

It is at once obvious that the instant automatic review embraces only the death penalties. We cannot review the indeterminate penalties because no appeal was interposed by the seven accused.

We agree with counsel de officio's contention that treachery absorbs abuse of superiority. But his contention that quasi-recidivism was not sufficiently alleged in the information and that, therefore, it could not be taken into account in this case is not well-taken.

It is not well-taken because in the criminal complaint dated July 26, 1969 for double murder and double frustrated murder, filed against the seven accused in the municipal court of Panabo by the supervising prison guard and investigator of the Davao Penal Colony, and in their extrajudicial confessions there is a specification of the judgments of conviction and imprisonment sentences being served by each of them, the courts that rendered the judgments, the numbers of the criminal cases wherein the judgments were rendered and the dates when the accused started serving their sentences (p. 1, Record).

The fiscal omitted that enumeration in the information but he specifically alleged that the seven accused were "convicts serving (sentences) in the Davao Penal Colony" when the crimes were committed in the said penal institution. That is a sufficient allegation of quasi-recidivism within the meaning of article 160 of the Revised Penal Code. It justifies the imposition of the death penalty for each of the two murders. The record contains sufficient data as to the special aggravating circumstance of quasi-recidivism. That is a matter of judicial notice.

Counsel de officio and the Solicitor General did not raise any issue as to whether the seven accused made an improvident plea of guilty. However, Solicitor General Felix Q. Antonio believes that a recommendation for executive clemency should be made to the President of the Philippines so that the death penalties may be commuted to reclusion perpetua.

The trial court was convinced that the seven accused or convicts understood their pleas of guilty which, as a judicial confession, was a confirmation of their lengthy extrajudicial confessions found in the record. Consequently, the trial court in the exercise of its discretion did not require the prosecutor to present evidence after the plea of guilty was entered.

The record shows that the said accused also entered a plea of guilty in the municipal court during the preliminary investigation (pp. 58-59, Record). Their extrajudicial confessions were sworn to before the same municipal judge who conducted the preliminary investigation (pp. 4-50, Record). The necropsy reports and the medical certificates issued by the chief of the hospital of the Davao Penal Colony, which are found in the record, prove the corpus delicti (pp. 51-54, Record).

It is not always de rigueur or mandatory upon the trial court to receive evidence when a plea of guilty is entered in capital cases. The court has discretion to dispense with the reception of evidence (*People vs. Duaban*, L-31912, August 24, 1979, 92 SCRA 743).

The rule, based on the guidelines laid down in the lead-ing case of *U. S. vs. Jamad*, 37 Phil. 305, is succinctly stated by Justice Diaz in *People vs. Palupe*, 69 Phil. 703, 705 in this manner:

"Cuando un acusado admite libre y voluntariamente su delito con pleno conocimiento de la indole exacta del mismo, su admission, o mejor dicho, su confesion, hecha en dichas circunstancias, es suficiente para justificar la imposicion de la pena que para dicho delito hay prescrita por la ley.

"Es discrecional en los juzgados permitir la presentacion de pruebas adicionales despues que el acusado haya confesado formalmente su delito.

"Tan solo es prudente y necesario tal vez, requerir la presentacion de otras pruebas además de las que el mismo acusado suministra mediante su confesion libre y voluntaria, cuando hay un ásono de duda de que al hacerla, no la hace estando bien impuesto de los verdaderos hechos, y de las consecuencias de su acto."

In the instant case, the trial court did not abuse its discretion in not requiring the presentation of evidence after the seven accused had separately entered their pleas of guilty. There is no doubt as to their guilt.

In *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 and *People vs. Perete*, 111 Phil. 943, five cases involving the killing by prisoners of their fellow prisoners, this Court upheld the death penalty imposed by the trial court on the basis of the plea of guilty entered by the accused even if the prosecution was not required to present evidence.

The trial court acted correctly in punishing each murder with death. (*People vs. Peralta*, L-19069, October 29, 1968, 25 SCRA 759.)

But for lack of the requisite ten votes, the death penalties cannot be imposed. At least two Justices believe that the death penalty should not be imposed when, as in this case, the accused had been languishing in prison for more than ten years since the trial court imposed the death penalty upon them.

WHEREFORE, the two death penalties imposed on the seven accused for the two murders are commuted to two (2) reclusion perpetuas subject to the forty-year limit as provided for in article 70 of the Revised Penal Code. The civil liability imposed by the trial court is affirmed. Costs de oficio.

SO ORDERED.

Barredo, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur. Teehankee, and Makasiar, JJ. in the result.

Fernando, C.J., concurs in the result, but dissents from so that portion of the opinion which reads thus: "It is not always de rigueur or mandatory upon the trial court to receive evidence upon a plea of guilty is entered in capital cases. The court has discretion to dispense with the reception of evidence. The court, in his opinion, if well-nigh mandated by the due evidence clause to hear evidence on the question of guilt or lack of it or the present mitigating circumstances.

[*] The other three accused, Sigin, Madola and Aguiluz, subsequently pleaded guilty to an amended information charging them as accomplices (they were originally charged as principals). Each of them was sentenced in a decision dated August 31, 1970, rendered by another trial judge, to only one indeterminate penalty consisting of three years, six months, and twenty days of prision correccional as minimum to ten years of prision mayor as maximum. In imposing only one indeterminate penalty, the trial court, in effect, regarded the double murder and double frustrated murder as a complex offense.

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