

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
PEDRITO RAMOS ALIAS PEDRO MARQUEZ, MANOLITO SAGMIT
ALIAS BOY NOLI, ANGEL DE LOS MINA ALIAS PEDRO ADRIANO, BOY
LACABA ALIAS...**

G.R. No. L-31861. October 23, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

On March 18, 1970, the Provincial Fiscal of Rizal charged ten (10) defendants before the then Circuit Criminal Court at Pasig, Rizal with the crime of robbery (carnapping) with homicide in an information which reads:

"That on or about the 7th day of March 1970, in the Municipality of San Juan, province of Rizal, Philippines and with the jurisdiction of this Honorable Court, the above-named accused Pedrito Ramos alias 'Pedro Marquez', Manolito Sagmit alias 'Boy Noli', Angel de los Mina alias 'Pedro Adriano' and Boy Lacaba alias 'Boy Bakulaw' alias 'Duday', conspiring and confederating together and mutually helping one another, with intent of gain and by means of force and violence, with the use of motor vehicle and three (3) of the accused armed with firearms (.45 caliber pistols and cal. 22 revolver), at night time, a circumstance deliberately sought to insure success in the commission of the crime, did then and there willfully, unlawfully and feloniously take and carry away from one Francisco Marasigan, Jr., a motor vehicle (Toyota Corona Mark II De Luxe SL-1970, Engine No. 7RB472643) against the will and consent of the latter, valued at P24,000.00 belonging to said Francisco Marasigan, Jr., to the damage and prejudice of the latter in the aforementioned amount of P24,000.00; that on the occasion of said robbery and for the purpose of enabling them to take away the motor vehicle above-mentioned and in pursuance of their conspiracy, herein accused did then and there willfully, unlawfully and feloniously, with intent to kill, evident premeditation, treachery and taking advantage of their superior strength and number, shoot said Francisco Marasigan, Jr., thereby inflicting upon the latter several gunshot wounds on the different parts of his body which directly caused his death.

"That the accused Benedicto Cartagena alias 'Benny' Rogelio Gabriel alias 'Rowel', Mrs. Alberto Cristobal alias 'Aling Nene', Nemesio Reyes and two (2) John Does whose true names and whereabouts are still unknown, having knowledge of the commission of the above offense and without having participated therein as principals or accomplices, did then and there willfully, unlawfully, feloniously and knowingly take part therein subsequent to its commission by then and there profiting or assisting the principals to profit by the effects of the said crime.

"All contrary to law with the following aggravating circumstances:

1. Night time;
2. Evident premeditation;
3. Treachery;
4. Use of motor vehicle; and

5. Use of superior strength."

(pp. 1-2, Record)

On March 19, 1970, six (6) defendants, including herein defendants-appellants, assisted by counsel, were arraigned and entered their respective plea of not guilty. Whereupon the trial of the case was set for March 23, 24 and 25, 1970 at 8:00 in the morning.

On March 20, 1970, defendants-appellants Pedrito Ramos alias "Pedro Marquez", Angel de los Mina alias "Pedro Adriano" and Manolito Sagmit alias "Boy Noli", were brought to court and, through their counsel de oficio, Atty. Jose O. Galvan, moved that they be allowed to withdraw their former plea of not guilty and to substitute it with a plea of guilty. The motion to change the plea was granted by the trial court and the three - Ramos, Sagmit and de los Mina - were arraigned anew, with the Deputy Clerk of Court reading the information and translating its contents into Filipino language which was understood by them, following which they pleaded guilty to the information.

Thereafter, counsel de oficio Atty. Galvan, prayed that the trial court allow him to present the three (3) defendants-appellants to prove mitigating circumstances. Motion granted, appellants attempted to establish the fact that they surrendered to the authorities.

What transpired in the hearing of March 20, 1970 appears in the record. Thereafter, a decision was rendered, the dispositive portion of which reads:

"WHEREFORE, finding the accused, Pedrito Ramos, Manolito Sagmit, and Angel delos Mina, GUILTY, beyond reasonable doubt, of the crime of Robbery with Homicide as defined under Paragraph I, Article 294 of the Revised Penal Code, as charged in the information, the Court hereby sentenced each one of them to suffer the penalty of DEATH; to indemnify the heirs of the offended party, jointly and severally, in the amount of P20,000.00, to pay P25,000.00 as moral damages and P25,000.00 as exemplary damages; and to pay their proportionate share of the costs." (p. 51, Record)

On March 30, 1970, Atty. Teofilo Ragodon, repre-senting accused Manolito Sagmit, filed an urgent motion to permit the withdrawal of his plea of guilty, alleging among others that -

"7. The change of plea on the part of Manolito Sagmit was the result of undue influence exerted by his co-defendants Angel de los Mina and Pedrito Ramos who are very much older than he, by imposing upon him to go along with them and by assuring him that if he would plead guilty with them they would receive a lower penalty than death.

"8. Defendant Sagmit, in view of the stress and strain, both mentally and physically, that he had undergone and was undergoing from the day of his arrest on March 13th, had a befuddled and confused mind particularly at the time of his change of plea, and due to his youth and inexperience he did not fully under-stand the import of the questions that have been propounded to him before his plea, nor the legal con-sequences of his answers thereto." (p. 79, Record)

On April 6, 1970, the trial court denied the motion for lack of merit. Thus, the case of the three accused was elevated to this Court on automatic review.

In his brief, appellant Manolito Sagmit contends that the lower court erred (1) in holding an impromptu and ad hoc hearing, in advance of one already scheduled, without previous notice to appellant Sagmit's private counsel; (2) in ordering "re-arraignment" of appellant Sagmit under Section 6, Rule 118, of the Rules of Court, and in accepting his plea of guilty; and, (3) in denying appellant Sagmit his right to a fair and impartial trial, and in denying him permission to withdraw his plea of guilty.

We are not impressed. While it is true that on March 19, 1970 Sagmit and his co-appellants had pleaded not guilty, the following day, March 20, 1970, the three (3) assisted by counsel de-oficio, Atty. Jose O. Galvan, moved that they be allowed to withdraw their former plea of not guilty and to substitute the same with a plea of guilty. The proceedings on March 20, 1970 before the trial judge state:

"ATTY. GALVAN:

Your Honor please, this morning, I went to the provincial jail to confer with the three accused herein. I have conferred with them lengthily in connection with the charge of the intonation against them, and I have given them my legal advice as their counsel de oficio, your Honor; and they took my legal advice. I informed them the consequences of the offense that is committed, the present case at bar, and your Honor please, the accused have intimated to me that even now they are willing that this case be terminated. I have told the Fiscal that these accused are willing to terminate this case as soon as possible. Now, your Honor, upon giving them all my legal advice and telling them the consequences of the offense that is being charged against them, the accused are well-convinced - that they are withdrawing their former plea of not guilty and they are entering a plea of guilty to the crime charged; and I request your Honor, that they be re-arraigned.

COURT: Did you study the case very well?

ATTY. GALVAN: I have studied the case very well, your Honor, and I have gone over the evidence which are in the possession of the Fiscal. There is no alternative - that there is no chance for them to fight this case.

COURT: What do you say?

FISCAL MELENDRES: I have no objection to the withdrawal of the former plea of not guilty of the accused.

ATTY. GALVAN: I have conferred with them in Tagalog, your Honor, the language which they understand and they intimated to me that they want that this case be terminated and they know the penalty of the Court to be imposed.

COURT: The motion being meritorious, the same is hereby granted pursuant to Section 6, Rule 118 of the New Rules of Court. Re-arraign the three accused. (The Deputy Clerk of Court reading the information and the same was translated into a Pilipino language understood by the three accused).

NOTE: At this juncture, the three accused, namely: Pedrito Ramos, Angel de los Mina, and Manolito Sagmit, made their respective mani-festation after having informed by the Deputy Clerk of Court of the consequences of their plea of guilty.

PEDRITO RAMOS: We admit that we shot the victim but we did not plan the killing.

MANOLITO SAGMIT: I admit but I did not know that they will shoot the victim.

ANGEL DE LOS MINA: We admit but we did not intend to kill the person.

PEDRITO RAMOS: We, are pleading guilty to the information as read to us in Tagalog which we understand.

MANOLITO SAGMIT: Yes, your Honor.

ANGEL DE LOS MINA: Yes, your Honor.

COURT: Are you aware that the penalty imposed, by law in this crime would be Reclusion Temporal from 20 years up to death?

PEDRITO RAMOS: We know that, your Honor.

COURT: And do you know that the penalty that may be imposed upon you is death?

PEDRITO RAMOS: Yes, your Honor.

COURT: Notwithstanding the fact that you plead guilty?

PEDRITO RAMOS: Yes, your Honor.

MANOLITO SAGMIT: Yes, your Honor.

ANGEL DE LOS MINA: Yes, your Honor.

ATTY. GALVAN: May we be allowed to present them in order to present the mitigating circumstances?

COURT: Granted." (pp. 2-8, tsn., hearing of March 20, 1970.

Thus, there was no abuse of discretion on the part of the trial judge who advised appellants on the possible consequence of the change of plea and, notwithstanding, the said appellants pleaded guilty to the charge.

Atty. Teofilo Ragodon who now represents appellant Manolito Sagmit did not enter his appearance as counsel in the court below. It was Atty. Galvan who appeared for them and was present all the while. We therefore find no irregularity in the actuation of the lower court when it allowed the withdrawal of the plea of not guilty and to substitute the same with that of guilty after the information was read to Sagmit and his co-appellants and translated in Pilipino, a language they understood. After the plea of guilty had been entered, Atty. Galvan even tried to prove a second mitigating circumstance - voluntary surrender - but failed because of the testimony of appellants them-selves. Even then, assuming that the same had been duly proved, the fact is, there are five (5) aggra-vating circumstances alleged in the information.

With respect to the appeal of appellants Pedrito Ramos and Angel de los Mina, they assigned the following errors to have been committed by the lower court:

- (1) in not hearing the evidence as to the commission of the offense charged; and
- (2) in depriving the accused of their rights.

In connection therewith, appellants Pedrito Ramos and Angel de los Mina, in their brief (p. 202), submitted that they "never for a moment profess innocence as to the killing" of the deceased and that the trial court could have received evidence which "would have resulted in the imposition of a penalty lesser than death" (p. 186).

As stated in the decision of the trial court:

"When the above-named accused were arraigned on March 19, 1970, pursuant to Section 1, Rule 116 of the New Rules of Court, in relation to Rule 118 thereto, duly assisted by their counsel de oficio, Atty. Jose O. Galvan, they all pleaded Not Guilty.

"Upon their request, they were brought to the Court this noon and manifested thru their counsel de oficio, Atty. Jose O. Galvan, that they be allowed to withdraw their former plea of not guilty and to substitute the same with that of a plea of guilty, which was granted by the Court pursuant to Section 6, Rule 118 of the New Rules of Court.

"The three accused were apprised of the consequence of their change of plea of guilty by the Court, informing them that they might be punished with a penalty of death, and they manifested that they were aware of the same. The Court, however, appreciates and takes into considera-tion the mitigating circumstance of confession of guilt by the three accused prior to the presentation of evidence for the prosecution under Paragraph 7, Article 13 of the Revised Penal Code.

"The three accused, namely: Pedrito Ramos, Manolito Sagmit, and Angel de los Mina, were placed on the witness stand by the counsel to prove the mitigating circumstance of voluntary surrender." (pp. 48-49, Record)

Indeed, herein appellants cannot now profess ignorance of the import of their acts when they, assisted by counsel, entered a plea of guilty upon arraignment. In this case, no other conclusion can follow than that appellants' plea of guilt was made with knowledge of its significance. The crime committed was robbery with homicide attended by at least four (4) aggravating circumstances - superior strength being absorbed in treachery. Death penalty was correctly imposed by the trial court; however, for lack of the necessary votes, the penalty imposed is reduced to reclusion perpetua.

WHEREFORE, with the modifications that the penalty imposed is reduced to reclusion perpetua and the indemnity for the death of Francisco Marasigan, Jr. is increased from P20,000.00 to P30,000.00, the appealed judgment is hereby AFFIRMED in all other respects.

SO ORDERED.

Teehankee, Guerrero, Abad Santos, Melencio-Herrera, Plana, Escolin, Gutierrez, Jr., De La Fuente, and Cuevas, JJ., concur.

Fernando, C.J., in the result.

Makasiar, J., I dissent. Their plea was qualified. Trial Court should have granted them full opportunity to prove that they did not plan to kill of that they did not know that the victim will be killed of that def. Sagmit was ordered or deceived to plead guilty.

Aquino and Concepcion, Jr., no part.

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