

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MIGUEL BALUYOT Y DULAY, PABLO PINCA Y NARCA AND ANTONIO
BALINJARI Y NAVAL, ALIAS TONY BALUYOT,
DEFENDANTS-APPELLANTS.**

G.R. Nos. L-32752-3. January 31, 1977

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is an automatic review of the decision rendered on October 7, 1970 by the Circuit Criminal Court of the Fifth Judicial District holding sessions in Malolos, Bulacan (Judge Abelardo M. Dayrit, presiding), convicting the defendants Miguel Baluyot y Dulay, Pablo Pinca y Narca and Antonio Balinjari y Naval, alias Tony Baluyot, of the crime of robbery with homicide and sentencing each and all of them to death, "with the other accessories of the law; to proportionately indemnify the heirs of the victim in the amount of P12,000.00; to correspondingly pay the said heirs by way of moral and exemplary damages in the amount of P20,000.00, proportionately; and similarly, to proportionately pay the costs of these proceedings."

The information under which the aforementioned defendants were charged reads as follows:

"The undersigned Provincial Fiscal accuses Miguel Baluyot y Dulay, Pablo Pinca y Narca and Antonio Balinjari y Naval, alias Tony Baluyot of the crime of robbery with homicide, penalized under the provisions of Art. 294, paragraph 1 of the Revised Penal Code, committed as follows:

"That on or about the 6th day of August 1970, in the Municipality of Malolos, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Miguel Baluyot y Dulay, Pablo Pinca y Narca and Antonio Balinjari y Naval, alias Tony Baluyot, conspiring and confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously, with intent of gain and by means of force, violence and intimidation, take and rob money from Gerry Sureta alias Marcelino Carceles y Abasola, then driving a taxi marked AIRLANE with plate No. 14-97, 40-TX 870 (TX-9345 s/69), to the damage and prejudice of the said Gerry Sureta alias Marcelino Carceles y Abasola; that simultaneously, on the occasion of or during the commission of robbery, to enable them to take, steal and carry away the said money, the said accused, in furtherance of their conspiracy, with intent to kill, with treachery and evident premeditation and armed with a deadly weapon (dagger) fan-knife, did attack, assault and stab the said Gerry Sureta alias Marcelino Carceles y Abasola, hitting him in the neck, thereby inflicting serious wounds (stab wounds), which directly caused the death of said Gerry Sureta alias Marcelino Carceles y Abasola.

"That in the commission of this crime, the following aggravating circumstances were present, to wit: (1) nighttime, (2) craft and (3) abuse of superior strength."

Upon arraignment on September 28, 1970, all the accused, assisted by attorney de oficio, Atty. Oscar Torres, pleaded not guilty to the information. The following day - September 29 - when the case was called for trial, the prosecution started presenting its evidence. The accused were assisted by the same attorney de oficio, Atty. Oscar Torres, who manifested that he was appearing as counsel for the accused in that day's trial only. The prosecution

thereupon called, as its first witness, Dr. Ricardo V. Evangelista, a medico-legal officer of the Provincial Hospital of Malolos, Bulacan. Among other things, Dr. Evangelista identified the post-mortem findings on the deceased Marcelino Carceles y Abasola alias Gerry Sureta (Exh. A, p. 4, t.s.n., September 29, 1970-Bacani) and the diagram he prepared in connection with the said post-mortem findings (Exh. A-1, Idem.).

Trial was continued the following day, September 30, 1970. The accused were this time assisted by another counsel de oficio, Atty. Godofredo Linsangan. At this hearing, the prosecution called on its second witness, one Democrito Mendoza, a corporal of the police force of Malolos, Bulacan. Among other things, Corporal Mendoza identified the first accused Miguel Baluyot and the statement given by the latter to the police (Exh. B, p. 2, t.s.n., Sept. 30, 1970, Idem.). The same witness also identified the third accused Antonio Balinjari y Naval, alias Tony Baluyot, and the state-ment given by said accused to the police (Exh. C, p. 3, t.s.n., Idem.). The last witness presented by the prosecution on this day was Guillermo R. Cruz, patrolman of the Malolos Police Force. Among other things, this witness identified the second accused Pablo Pinca y Narca and the statement given by the said accused to the police (Exh. D, p. 9, t.s.n., Idem.).

Thereafter, the continuation of the trial was reset for October 7, 1970. At this hearing, the accused were assisted by another counsel de oficio, Atty. Eduardo Villafuerte, who was appointed by the trial court after the accused informed it that they had no lawyer. Then the trial court asked the new counsel de oficio what his pleasure was, and the latter requested that he be given a few minutes within which to confer with the accused. The trial court gave him twenty (20) minutes within which to "consummate" his conference. Accordingly, when the session was resumed, Atty. Villafuerte manifested that after conferring with the accused, they intimated ... their desire to withdraw their former plea of not guilty and to substitute in lieu thereof the plea of guilty to the offense charged."

Without inquiring from the prosecution what its stand was on the motion of counsel for the accused, the trial court, addressing itself to all the accused, said:

"COURT

"You have heard the manifestations of counsel. Do you now affirm the truthfulness and correctness of the manifestation of counsel to the effect that you now desire to withdraw your former plea of not guilty and to substitute the same with that of guilty to the offense charged?

"Q - Miguel Baluyot y Dulay?

"A - Yes, your Honor.

"Q - Pablo Pinca y Narca?

"A - Yes, your Honor.

"Q - Antonio Balinjari y Naval?

"A - Yes, your Honor.

"Q - Are you now ready to hear your sentence?

"A - Yes, your Honor.

"Alright" (pp. 2-3, t.s.n., October 7, 1970, Placido).

Then and there, and without much ado, the trial court dictated in open court its decision under review, the dispositive portion of which reads as follows:

"In view of the foregoing considerations, the Court declares the accused GUILTY beyond reasonable doubt of

the crime charged in the information (Art. 294, Par. (1), Revised Penal Code) and in view of the attendance of the lone mitigating circumstance of voluntary plea of guilty to the offense charged and the presence of three (3) generic aggravating circumstances, one of which was necessarily offset by the lone mitigating circumstance of the said voluntary plea of Guilty, as prescribed in Art. 64 of the Revised Penal Code, the Court is constrained to impose upon each of the accused the DEATH PENALTY, with the other accessories of the law; to proportionately indemnify the heirs of the victim in the amount of P12,000.00; to correspondingly pay the said heirs by way of moral and exemplary damages in the amount of P20,000.00, proportionately; and similarly, to proportionately pay the costs of these proceedings"

Before this COURT, the accused are represented, by duly designated counsel de oficio, Atty. Feliciano Belmonte, Jr. In the brief he filed on December 6, 1972, counsel assigned only one error, to wit: "The trial court erred in convicting the accused-appellants and imposing the supreme penalty on the basis alone of their plea of guilty to the information and the aggravating circumstances alleged therein without the court ascertaining whether or not there was evidence to support the existence of such aggravating circumstances", and prayed for "the remand of the case for further trial in the lower court."

On March 28, 1973, Acting Solicitor General Hector G. Fule, Assistant Solicitor General Jaime M. Lantin and Solicitor Reynato S. Puno, filed a manifestation, which has been considered as appellee's brief, virtually joining the cause of the defendants-appellants by enumerating in one page a long chain of cases previously decided by this COURT, and praying that the decision under review be vacated and the case remanded to the lower court for further proceedings.

WE have painstakingly reviewed, the record of this case and WE find both the lone error assigned by appellants and the manifestation of the Solicitor General well-taken.

Hence, WE set aside the decision of the trial court.

To start with, the court a quo did not even ascertain for itself whether the accused completely understood the precise nature of the charge and the meaning of the aggravating circumstances of nighttime, craft and abuse of superior strength as having attended the commission of the crime, so as to obviate any doubt as to the possibility that they have misunderstood the nature and gravity of the charge to which they were pleading guilty. The trial court did not conduct a dialogue with the accused on their educational attainment especially considering that a cursory perusal of their signatures on the statements they gave to the Malolos Police Force (Exhs. A, B and C) tends to show that they have very little or scanty education. More-over, from the transcript, WE have noted that after the arraignment, trial was held on three dates and on each day the accused were assisted by three (3) different counsel de oficio. In the hearing of October 7, 1970 - the day the decision under review was rendered - the counsel de oficio who assisted the accused was designated by the trial court only after the case was called for trial, i.e., after the accused had informed the trial court that they did not have a lawyer. Under these circumstances, it is not unreasonable to assume that said counsel de oficio proceeded to trial without first fully investigating the facts of the case and that his interview with the accused, even if it lasted for twenty (20) minutes as the record insinuates, was not, and could not have been sufficient to enable him to acquire a fairly good grasp, much less a com-prehensive knowledge, of the relevant facts of the case. Incidentally, under the Rules of this Court, whenever an attorney de oficio is employed or assigned by the court to defend the accused at the trial, he shall be given a reasonable time to consult with the accused and prepare his defense before proceeding further in the case, which shall not be less than two (2) days in case of trial (Sec. 5, Rule 116, Revised, Rules of Court). The record, incidentally, does not show the existence of a "good cause" to justify the trial court in shortening the trial fixed by the Rules.

The court a quo cannot plead ignorance of the prevailing injunction directed towards trial judges to exercise

patience and circumspection in explaining to the accused not only the nature and meaning of the accusation and the full import of their plea of guilty but also the meaning - in layman's language - of the aggravating circumstances that attended the commission of the crime, because not very long before the rendition of the decision under review, this COURT in three (3) cases (People vs. Apduhan, 24 SCRA 798, August 30, 1968; People vs. Arpa, 27 SCRA, 1037, April 25, 1969; and People vs. Solacito, 29 SCRA 61, August 25, 1969) had already enunciated its long-settled rule on the matter. As a matter of fact, in the Arpa case, WE had occasion to reiterate the said rule of practice, recommended since the early cases of US vs. Talbanos (6 Phil. 541, 543, Oct. 29, 1906) and US vs. Rota (9 Phil. 426, Dec. 21, 1907), and thereafter set out in Sec. 5, Rule 118 of the Revised Rules of Court, which provides:

"Plea of guilty - Determination of punishment. - Where the defendant pleads guilty to a complaint or information, if the court accepts the plea and has discretion as to the punishment for the offense, it may hear witnesses to determine what punishment shall be imposed."

Furthermore, the court a quo did not even consult the testimonies of the three State witnesses - namely, the doctor and the police officers who took down the statements of the accused - who testified during the first and second hearings, at least with the end in view of ascertaining the degree of the penalty that should be imposed after accepting the plea of guilty of the accused. What the court a quo did was only to ask the accused whether they were ready to receive their sentence after they had affirmed the "truthfulness and correctness" of their counsel's manifestation on their change of plea. In short, the court a quo did not even inform the accused that their plea of guilty might mean death for all of them.

WE deeply lament this attitude of the court a quo. Be that as it may, however, WE only hope that hereafter trial courts would strictly comply with the rigid standard set in the following cases after Apduhan, Arpa and Solacito, all of which have invariably, consistently and firmly established and stressed the duty of trial courts before accepting the plea of guilty of an accused to a capital offense. These cases are:

1. The case of People vs. Englatera (34 SCRA, 2456, July 31, 1970), where WE found it proper to invite the attention of the court a quo and of all trial courts in general to what WE said in Apduhan and Solacito cases on the matter of what the trial court should do upon arraignment of a defendant charged with a capital offense, before he is allowed to enter a plea of guilty;
2. The case of People vs. Estebia (40 SCRA, 90, July 29, 1971), where, in addition to reiterating what WE said in the Englatera case, WE also stressed on the need for care and prudence before accepting the plea of guilty of an accused especially in capital offenses;
3. The case of People vs. Flores (40 SCRA, 230, July 30, 1971), where this COURT, speaking through then Chief Justice Querube C. Makalintal, said:

"The norm that should be allowed where a plea of guilty is entered by the defendant, especially in cases where the capital penalty may be imposed, is that the court should be sure that defendant fully understood the nature of the charges preferred against him and the character of the punishment provided by law before it is imposed."

4. The case of People vs. Simeon (47 SCRA, 129, September 28, 1972), where WE made reference to numerous other cases, such as US vs. Talbanos, supra; US vs. Rota, et al., supra; US vs. Agcaoili (31 Phil. 91, March 31, 1915); People vs. Bulalake (106 Phil. 767, December 28, 1959); and People vs. Arpa, supra, not to mention the 1971 and 1972 cases of People vs. Estebia, supra, and People vs. Esteves (L-34811, August 22, 1972);
5. The case of People vs. Ibañez (61 SCRA 468, 473, December 20, 1974), where this COURT, speaking again through then Chief Justice Querube C. Makalintal, said:

"The trial court disregarded our injunction in *People vs. Apduhan* (24 SCRA, 817) to all trial judges to '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.' In *People vs. Lacson* (55 SCRA, 589), this Court had occasion to reiterate the rule 'that in capital offenses the taking of testimony, notwithstanding the plea of guilty, is the proper and prudent course to follow to establish the guilt and precise degree of culpability of the accused not only to satisfy the trial judge but to aid the Supreme Court in determining whether accused really and truly understood and comprehended the meaning, full significance and consequence of his plea.'

"What this Court said in *People vs. Busa* (51 SCRA, 317) is particularly apropos: 'In sum and substance, it will not suffice, under the law providing for compulsory review of death sentences by this Court, 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 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 penalty of death is valid only if it is susceptible of a fair and reasonable examination by this Court.'

6. The case of *People vs. Domingo* (68 SCRA, 50, 54, November 13, 1975), where, aside from reiterating the rule on the duty of trial courts to exercise solicitous care before sentencing the accused on a plea of guilty, especially in capital offenses, WE also said that trial judges should give ample opportunity to the counsel de officio to examine not only the records of the case but also the scene of the crime as well as to confer with the accused lengthily so that he can properly, intelligently, and fully represent and defend the interests of the accused; and

7. The latest case of *People vs. Hondolero* (G.R. No. L-40633, August 25, 1976), where WE reiterated the rule long established since the *Talbanos*, *Rota* and *Agcaoili* cases, *supra*, that "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 not only the guilt but as well as the precise degree of culpability of the defendant."

WE hasten to add what WE said in *People vs. Ricalde* (L-34673, January 30, 1973), which is somehow identical in most, if not all, respects to the case at bar. In that case, this COURT, speaking through Chief Justice Fred Ruiz Castro, sounded once more its concern over the failure of trial courts to comply strictly with the procedural paths WE have adverted to as early as the *Talbanos* case. Said this COURT:

"Our previous decisions have repeatedly warned against the danger of the plea of guilty being improvidently entered in capital cases. WE have uniformly stressed the importance of the trial court's receiving evidence notwithstanding the plea of guilty in order that no reasonable doubt may remain as to the guilt and the degree of culpability of the accused. We have time and time again reminded judges that they 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 inevitable conviction (*US vs. Jamad*, 37 Phil. 305; *People vs. Bulalake*, 106 Phil. 767; *People vs. Arpa*, 27 SCRA, 1037).

"In the case at bar, We are not satisfied that the trial judge has properly discharged this basic duty enjoined of him.

"As pointed out by both the counsel for the appellant and the Solicitor General, the trial judge limited himself to asking two brief questions from the appellant: whether the appellant was aware of the consequences of his change of plea from not guilty to that of guilty, and whether the appellant knew that notwithstanding such plea of guilty the only possible penalty was that of death. The record is completely bereft of any indication that the court diligently ascertained for itself whether the appellant completely understand the full meaning significance and implications of his plea of guilty. The court likewise failed to inform the appellant of the

aggravating circumstances alleged in the amended information and their effect on his plea. Again, the court failed to ask the appellant whether he was invoking mitigating circumstances in his favor. Finally, the court did not make any inquiry, which inquiry was obviously called for, why the appellant had a sudden change of plea after he had previously pleaded not guilty to the charge against him. In sum, the trial court failed to take the necessary precautions to forestall the entry by the appellant of an improvident plea of guilty before passing judgment upon him."

WHEREFORE, THE DECISION OF THE COURT A QUO OF OCTOBER 7, 1970, FINDING THE ACCUSED GUILTY OF ROBBERY WITH HOMICIDE AND SENTENCING EACH AND ALL OF THEM TO THE SUPREME PENALTY OF DEATH, IS HEREBY SET ASIDE AND THE CASE REMANDED TO IT FOR FURTHER PROCEEDINGS IN CONFORMITY WITH THIS DECISION. WITHOUT PRONOUNCEMENT AS TO COSTS.

Teehankee, (Chairman), Muñoz Palma, Concepcion, Jr., and Martin, JJ., concur.

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