

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
RUSTICO ESTEVES, DEFENDANT AND APPELLANT.***G.R. No. L-34811. August 18, 1972*

Ponente: MAKALINTAL, J.

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In the judgment of the Court of First Instance of Samar, Branch IV, dated May 25, 1971, in Criminal Case No. C-97, the accused Rustico Esteves was sentenced, upon his plea of guilty, to the penalty of death for the offense of rape committed against a 13-year-old girl, Concordia Hermosura. Against the mitigating circumstance of the plea the Court considered two aggravating circumstances: (a) superior strength and use of a deadly weapon, and (b) previous conviction for two crimes punishable with lighter penalties than that for which the accused was charged in this case.

The decision of the trial court having been elevated to Us for automatic review, a counsel de oficio, in the person of Estelita D. Cordero, was appointed to represent the defendant. In the brief which she filed in his behalf it is pointed out that the trial court erred in pronouncing judgment solely upon the plea of guilty entered by the said defendant without first making sure that he understood the gravity of the offense charged and receiving evidence to establish the existence of the aggravating circumstances considered against him for the purpose of determining the penalty that was properly imposable. Counsel de oficio therefore recommends that the case be remanded to the court a quo so that the defendant may be arraigned anew with all the necessary precautions to insure that the proper judgment is imposed.

The Solicitor General has filed a manifestation making the same recommendation after pointing out the lapses committed in connection with the arraignment of the defendant and the plea of guilty entered by him. We have gone over the transcript of the record below, where it appears that although the defendant was represented by counsel de oficio and did plead guilty to the information, the gravity of the charge against him had not been sufficiently explained. In fact what the court told him was that if he pleaded guilty he would be sentenced to a prison term — not to the penalty of death, which was subsequently imposed. And with respect to the aggravating circumstances, they were considered against defendant merely on the strength of the manifestation of the Fiscal as to their existence and without taking evidence to prove the same. Furthermore, as pointed out by the Solicitor General there is no showing as to the age, education, occupation and other personal circumstances of the accused which could guide the reviewing court in determining whether the plea of guilty was made with sufficient discernment.

In situations similar to the present one this Court has set aside the judgments of the trial courts and remanded the cases below. (People vs. Arca, L-26789, April 25, 1969; People vs. Flores, L-32692, June 30, 1971; People vs. Agcaoili, 31 Phils. 92; People vs. Aguilar, L-30932, 37 SCRA 115). In the last mentioned case it was held:

" * * * While it is true that a judgment convicting and sentencing a defendant may lawfully be pronounced upon a solemn plea of 'guilty' in open court and on arraignment entered by the accused with full knowledge of the meaning and effect of his plea, nevertheless, where the complaint charges a capital offense, the possibility

of misunderstanding or mistake in so grave a matter justifies and in most instances requires the taking of such available evidence in support of the allegations of the information as the trial judge may deem necessary to remove all reasonable possibility that the accused might have entered his plea of 'guilty' improvidently, or without a clear and precise understanding of its meaning and effect."

WHEREFORE the judgment of the court a quo is set aside and the case remanded to the court a quo so that the defendant may be arraigned anew and further proceedings taken as indicated in this decision.

Concepcion, C.J., Reyes, J.B.L., Zaldivar, Castro, Fernando, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

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