

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALBERTO DOMINGO Y NATO ALIAS "BOY ARRANQUE", ERNESTO MANGSAL Y JIMENEZ ALIAS "ERNING MATON", AND EDUARDO VITUG Y PUNILAS ALIA...**

*G.R. Nos. L-30464-5. January 21, 1974*

Ponente: MAKASIAR, J.

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**MAKASIAR, J.:**

In a decision dated March 18, 1969, the Judge of the Circuit Criminal Court of Manila sentenced to death the accused Alberto Domingo y Nato alias "Boy Arranque" and Francisco Agner y Redrindo alias "Francing" as principals for the crime of robbery with homicide, aggravated by recidivism, abuse of superior strength, and the use of motorized vehicle, mitigated by plea of guilty and voluntary surrender, to jointly and severally indemnify the heirs of the deceased Virginia Quintos de Sipin in the sum of P12,000.00 as actual damages, P20,000.00 by way of moral damages, to return to the said heirs the articles stolen from the deceased or to pay them jointly and severally their value in the total amount of P851.00.

This case was considered submitted for decision on August 5, 1970. However, in his ex parte motion filed on October 24, 1973, appellant Domingo prays for new trial on the ground that as a pauper, he was represented during the trial by a counsel de oficio who prevailed upon him to enter a plea of guilty without his having been properly advised by the trial judge of the nature and consequences of his plea of guilty; that he is unschooled and therefore was not afforded a chance to fully comprehend the meaning and effect of qualifying and/or aggravating circumstances; and that his testimony was not even taken before the trial court which should have been the proper course to follow to establish not only his guilt but also the degree of his culpability despite his plea of guilty, citing several cases including *People vs. Villafuerte* (L-32036, July 31, 1973) [pp. 197-198, rec.].

In his comment, the Solicitor General stated:

"1. The record discloses that when arraigned on March 6, 1969, accused-appellant Alberto Domingo y Nato, together with two other co-accused, pleaded not guilty (p. 4, rec.);

"2. Rearraigned on March 14, 1969, said appellant Domingo, assisted by counsel de oficio, withdrew his previous plea of not guilty and substituted it with a plea of guilty, invoking the mitigating circumstances of plea of guilty and voluntary surrender. The prosecution objected to voluntary surrender, and manifested to prove aggravating circumstances (p. 10, rec.);

"3. By its order of March 12, 1972, the court a quo deferred its decision as to appellant Domingo, with the prosecution and defense to prove modifying circumstances, as claimed by them (p. 11, rec.);

"4. After joint trial, the court a quo, in finding appellant Domingo guilty, appreciated in his favor his plea of guilty and voluntary surrender, while it considered the aggravating circumstance of recidivism against him (pp. 76-92, rec.);

"5. The above proceedings may well show that appellant Domingo is not entirely unaware of the plea of guilty that he entered;

"6. What impinges, however, on the validity of his plea is (to borrow the apt language in *People vs. Villafuerte, et al.*, L-32036, July 31, 1973) 'the absence in the record of whatever dialogue the judge or clerk of court might have had with the defendant(s)' Domingo, in order to personally insure that he had 'completely understood the full meaning, significance and implications' of his plea of guilty." (Pp. 1-2, Comment of the Solicitor General dtd. Dec. 4, 1973).

When arraigned on March 5, 1969, accused Alberto Domingo y Nato pleaded not guilty (pp. 4-5, rec. of Crim. Case No. CC-VI-129) to the charge of robbery with homicide described as follows:

"That on or about the 24th day of February, 1969, in the City of Manila, Philippines, the said accused, conspiring and confederating together with others whose true names and identities are still unknown and helping one another, did then and there willfully, unlawfully and feloniously, with intent of gain and by means of violence against and intimidation of person, to wit: by using a nickelplated .45 caliber automatic pistol threatening one Mrs. Virginia Quintos de Sipin with the infliction of bodily harm upon her person should she resist or cry out for help, take, steal and carry away one ladies' Whitnauer wristwatch valued at P500.00, cash money amounting to P300.00, one pair of ladies' earrings valued at P25.00, one gold brooch valued at P15.00, one handbag valued at P5.00, one police whistle valued at P2.50, one music pipe valued at P3.00, one ball pen valued at P0.50 and keys and other personal papers, all belonging to the said Mrs. Virginia Quintos de Sipin, to the damage and prejudice of the said owner in the total sum of P851.00, Philippine currency; that on the occasion of the said robbery, the said accused, in furtherance of their conspiracy, did then and there willfully, unlawfully and feloniously, with intent to kill, shoot and fire at the said Mrs. Virginia Quintos de Sipin with the said firearm, hitting her on the right temporal body of the head, thus inflicting upon her physical injuries which were the direct and immediate cause of her death.

"That in the commission of said offense, the said accused acted with abuse of superior strength and treachery." (pp. 1-2, rec. of Crim. Case No. CC-VI-129).

At the trial on March 12, 1969, the following proceedings were recounted:

"Court:

Are you all ready?

Parties:

We are ready, your honor.

Atty. dela Merced:

If your honor please, I would like to manifest that accused Alberto Domingo has entered a plea of not guilty before and at this stage of the proceedings your honor, this accused Domingo is now willing to withdraw his former plea of not guilty and substitute it with a plea of guilty to the offense charged.

Court:

Who is Alberto Domingo, stand up. (Accused Domingo stood up as required by the court)

Your lawyer here has manifested your desire to withdraw your previous plea of not guilty and substitute it with a plea of guilty to the offense charged, do you agree to that manifestation of your lawyer?

Accused Domingo:

Yes, your honor.

Court:

**Q**

Do you know that by agreeing to that manifestation of your lawyer, you will be admitting the commission of the crime charged?

**A**

Yes, your honor.

**Q**

And for which this court will sentence you to life imprisonment or death as the case may be?

**A**

Yes, your honor.

**Q**

And notwithstanding what is explained to you, you still insist in your desire to withdraw your previous plea of not guilty and substitute it with a plea of guilty to the crime charged?

**A**

Yes, your honor.

**Q**

Notwithstanding the warning of the court that the penalty imposable is reclusion temporal to death?

**A**

Yes, your Honor.

Court:

Re-arraigned.

(Accused Domingo was re-arraigned).

Interpreter:

Guilty, your honor.

Court:

What does the fiscal say?

Fiscal Barbosa:

May I know from the defense counsel if the herein defendant other than entering a plea of guilty will avail of the mitigating circumstances?

Atty. dela Merced:

Your honor, we have already pleaded guilty to the information as charged and that means that we have also pleaded guilty to the aggravating circumstances mentioned in the information, that is, superior strength and treachery.

We have to prove also the mitigating circumstances of plea of guilty and voluntary surrender.

Court:

What does the fiscal say?

Fiscal Barbosa:

If your honor please, we do not interpose any objection to the admission of the mitigating circumstance of plea of guilty but with respect to voluntary surrender, we vigorously object because when the herein defendant after the commission of crime imputed to them including the other four defendants who are still at large were being hunted by the police, it was the lapse of three or four days from the commission of the crime that they surrendered to the police. . . If he had that intention to surrender to the police, immediately after the commission of the crime he should have done so but he had to wait for several days not until after the chief of Police issued a shoot-to-kill order that the defendant herein surrendered to the police.

Court:

So the question is that you are objecting to the admission of voluntary surrender?

Fiscal Barbosa:

Yes, your honor.

Court:

So your stand now is that you are objecting and you will prove the facts?

Fiscal Barbosa:

Yes, your honor.

Court:

How about the aggravating circumstances?

Fiscal:

We will prove the aggravating circumstances during the presentation of our evidence as against the other accused who are not entering a plea of guilty your honor.

Atty. Merced:

May I know from the fiscal what are the aggravating circumstances that he will prove?

Fiscal Barbosa:

It will come on due time. We will prove the use of motor vehicle, we will also prove the aggravating circumstances of recidivism, abuse of superior strength and treachery and we may also prove the aggravating circumstance of disrespect to sex.

Court:

## ORDER

When these cases were called for trial, accused Alberto Domingo, assisted by his counsel de oficio Atty. Amado de la Merced, manifested his desire to withdraw his previous plea of not guilty and substitute it with a plea of guilty to the offense charged.

When re-arraigned, accused Alberto Domingo spontaneously entered the plea of guilty to the offense charged and invoked the mitigating circumstance of plea of guilty and voluntary surrender. The prosecution represented by Fiscal Lino R. Barbosa, however, objected to the admission of voluntary surrender for the reason that the facts surrounding the said mitigating circumstances show that accused did not actually surrender voluntarily and further manifested that he will prove the aggravating circumstances.

WHEREFORE, the decision with respect to Alberto Domingo is hereby deferred until the case against all the other accused shall have been submitted for decision. During said trial, the prosecution and the defense with respect to accused Alberto Domingo will prove the circumstances claimed by them.

SO ORDERED." (Pp. 2-5, t.s.n.).

As pointed out by the Solicitor General, appellant Domingo was not sufficiently informed of the gravity of the offense. The allegations in the information and the consequences of his plea of guilty thereto were not explained fully to appellant Domingo. The dialogue between the trial judge and the accused appellant was too scanty to satisfy the constitutional requirement that the accused be adequately apprised of the nature of the charge against him, the averments in the information and the implications of his confession of guilt. In the instant case, the trial judge merely emphasized the imposable penalty ranging from reclusion temporal to death, without even explaining to the accused the meaning of the phrase "conspiring and confederating together" and of the aggravating circumstances of superior strength and treachery which are expressly alleged in the information, which aggravating circumstances were expressly conceded only by the counsel de oficio (p. 3, t.s.n.) in behalf of the accused.

We enunciated times without number in Our injunctions addressed to the trial courts that they should exercise solicitous care before sentencing the accused on a plea of guilty especially in capital offenses by first insuring that the accused fully understands the gravity of the offense, the severity of the consequences attached thereto as well as the meaning and significance of his plea of guilty; and that the prudent and proper thing to do in capital cases is to take testimony, to assure the court that the accused has not misunderstood the nature and effect of his plea of guilty (*People vs. Villafuerte*, supra; *People vs. Alamada*, L-34594-5, July 13, 1973; *People vs. Busa*, L-32047, June 25, 1973; *People vs. Silvestre*, L-27821, June 22, 1973; *People vs. Simeon*, L-33730, Sept. 28, 1972; *People vs. Espina*, L-33028, June 30, 1972; *People vs. Arpa*, L-26789, April 25, 1969, 27 SCRA 1030; *People vs. Bulalake*, 106 Phil. 760; *US. vs. Jamad*, 37 Phil. 305).

We likewise stressed in *People vs. Simeon*, supra, that in analogous cases, "the trial judge should give ample opportunity to the counsel de oficio 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 interest of the accused."

WHEREFORE, THE MOTION IS HEREBY GRANTED, THE DECISION DATED MARCH 18, 1969 IS HEREBY VACATED INsofar AS APPELLANT ALBERTO DOMINGO Y NATO IS CONCERNED AND THE RECORDS OF THIS CASE ARE HEREBY REMANDED TO THE LOWER COURT FOR A NEW ARRAIGNMENT AND FOR FURTHER PROCEEDINGS IN ACCORDANCE WITH LAW AND WITH THE

VIEWS HEREIN EXPRESSED, WITH RESPECT ONLY TO APPELLANT ALBERTO DOMINGO Y NATO.  
Makalintal, C.J., Ruiz Castro, Teehankee, Esguerra, and Muñoz Palma, JJ., concur.

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