

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
JUANITO ALDE Y CORDOVA ALIAS “WAWAY”;
DEFENDANT AND APPELLANT.**

G.R. No. L-31041. May 29, 1975

Ponente: FERNANDO, J.

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FERNANDO, J.:

The basis of a motion for new trial in this automatic review of a death sentence is the Aduhan^[1] ruling that frowns on a plea of guilty improvidently made. Stress was laid in that case on the accused having a full and accurate understanding of the serious implications of an admission of culpability. Its ruling has been consistently adhered to in subsequent cases.^[2] Accordingly, the most careful scrutiny was made of the proceedings in the lower court. As will hereafter appear, the reliance on Aduhan does not suffice. It does not follow, however, that the death sentence will have to be affirmed. The basis for such a verdict was the presence of two aggravating circumstances, evident premeditation and recidivism and only one mitigating circumstance, the plea of guilty. Evident premeditation, as will later on be shown, was not duly proved and ought not to have been taken into account. The penalty then for the crime of murder committed by appellant should be reclusion perpetua.

The plea of guilty was entered on July 30, 1969 before the Circuit Criminal Court of Manila with Judge Manuel R. Pamaran presiding. At the start of the session, his counsel de parte, Paterno Pajares, manifested that the accused sought permission to be allowed to withdraw his former plea of not guilty with one of admission of guilt. The court asked him whether that was his desire, and the accused answered, "Yes, your honor."^[3] Judge Pamaran then informed him that the effect would be his admission of the commission of the crime charged, to which he responded, "Yes, your honor."^[4] The judge added that he could be sentenced to imprisonment, even death, the maximum penalty provided by law. From the accused: "Yes, your honor."^[5] Judge Pamaran continued, "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 offense charged?"^[6] Again, the same reply from the accused: "Yes, your honor."^[7] Judge Pamaran commendably persisted in informing him as to the consequences of his plea. Thus: "Notwithstanding again the warning of the court that the maximum penalty imposable is death?"^[8] The same affirmative reply from the accused: "Yes, your honor."^[9] After he was arraigned anew, he entered the plea of guilty. When asked what mitigating circumstance was invoked, his counsel stated: "The plea of guilty, your honor."^[10] The fiscal, after stating that there were the aggravating circumstances of evident premeditation, treachery and recidivism, recommended that the death penalty be imposed. The court then asked the accused: "Did you hear the recommendation of the fiscal, death penalty?"^[11] This was his answer: "Yes, your honor."^[12] Judge Pamaran again warned him about the consequences of his plea: "In all probability, that might [be] adopted by the court, so that the court is still giving you a chance to withdraw your previous plea of guilty if you so desire?"^[13] The accused did not change his mind. Thus: "No more, your honor."^[14] Afterwards, the judge informed the accused that with only one mitigating circumstance, as against the aggravating circumstances, the death penalty would have to be imposed. He was then given a chance to withdraw his plea of guilty. The accused

did not take advantage of such opportunity: "I will not change my plea, your honor." [15] Then this query from Judge Pamaran: "Were you properly advised by your lawyer the consequence of your plea?" [16] The answer: "Yes, your honor." [17] A last chance was afforded him with this question, "You will not change your plea anymore?" [18] The accused remained adamant: "No more, your honor." [19]

In the decision under review the judge noted what transpired thereafter. There was, according to him, "the presentation of other evidence aside from the voluntary confession of the accused with respect to the aggravating and qualifying circumstances for it is believed that where an accused is with little or no education, the probable and prudent consideration to follow is to take evidence as were available and necessary in support of the material allegation in the information including the aggravating circumstances to aid the Supreme Court in determining whether the accused really and fully understood and comprehended the meaning and full consequences of his plea The prosecution, therefore, presented Alejandro Yanquiling, age 36 years, married, detective corporal of the Manila Police Department, who declared that he investigated the accused herein who gave his statement voluntarily ...; that the accused was brought to the crime scene where there was a reenactment of the crime, a picture of which was taken ...; that Detective Natividad played the role of Urbano Mendiola and the white object in the photograph is a folded newspaper representing the bolo; that accused took his position voluntarily and Det. Natividad took his position as told by the accused; that according to the accused, victim was along Tecson towards the east and he was walking towards the south when he stabbed the victim; that the accused then was hidden from the view of the victim because of the Meralco post around three feet; that according to the accused, he immediately drew his bolo from his waistline and without any warning, he stabbed Mendiola; that victim was not able to fight back because he was fatally wounded on the left chest and that there was no exchange of words between the accused and the victim." [20] It was his conclusion that the crime committed was murder qualified by treachery, with the presence of two aggravating circumstances, evident premeditation because the accused "had already planned to kill the victim since 1964 when he was mauled by [him] and his companion and he wanted to take revenge. . . ." [21] as well as recidivism, one of the exhibits submitted by the fiscal being a certified true copy of a decision of the then Judge E. Soriano dated November 19, 1964 sentencing the accused, Juanito Alde, to the indeterminate penalty of four years, two months and one day of prision correccional as minimum, to six years and one day of prision mayor as maximum for the offense of frustrated homicide. The penalty imposed, as noted earlier, was one of death as there were two aggravating circumstances, being offset only by the mitigating circumstance of a plea of guilt. Hence the automatic review.

From the above recital, it is clear that there is no justification for the assertion that the accused failed to be informed of the serious consequences attendant to a plea of guilt. This is not to say though, as already mentioned, that the decision under review calls for total affirmance. The finding as to the existence of evident premeditation cannot stand the test of scrutiny in the light of authoritative precedents. There must be then, as set forth at the outset, reduction in the sentence imposed.

1. In *People vs. Ibanez*, [22] one of the latest cases in point, there is a restatement of the duty incumbent on judicial tribunals to apprise the accused of the import of a plea of guilty in order that the due process requirement may be satisfied. According to the opinion of Chief Justice Makalintal: "The trial court disregarded our injunction in *People vs. Apduhan* 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*, 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 and 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

consequences of his, plea"[23] The Chief Justice continued: "What this Court said in *People vs. Busa* 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.'"[24] It bears repeating that the strict standard to be met whenever there is a plea of guilt to which this Court has been committed since *Apduhan* has been more than satisfied by the series of questions asked by Judge Pamaran wherein the accused was fully made aware of the likelihood that the death sentence would have to be imposed if he did admit his guilt. The warning notwithstanding, the accused still did so voluntarily. His prayer for a new trial is thus far from warranted.

2. The lower court did right in thereafter taking testimony as to the circumstances under which the crime was committed. As noted in the decision, a certain Alejandro Yanquiling, a detective corporal of the Manila Police Department, who investigated the accused, was put on the stand. The existence of the qualifying circumstance of *alevosia* thus came to light. There was nothing in his testimony, however, to indicate that the perpetration of the offense was attended by the aggravating circumstance of evident premeditation. All that Judge Pamaran could say in his decision was that in his statement to the police, wherein he admitted stabbing the deceased, he had planned to do so, as sometime in 1964 he was mauled by the victim and a companion. Actually, a reading of the "salaysay" of the accused would indicate the motive, *dahilan*, rather than the persistence of a criminal design, the stabbing having occurred in 1969, after five years had passed, a long enough period that more than sufficed for the criminal design, assuming it was seriously contemplated, to have been forgotten. Defense counsel was given a chance to cross-examine, and all he did was to ask four questions rather perfunctory in character. It would appear therefore that the trial court erred in finding that there was evident premeditation. As was clearly pointed out in two of the earliest decisions by Justice Torres,[25] an aggravating circumstance must be proved with no less certainty than that with which the commission of a principal offense is established. Such proof must be clear and positive.[26] "Aggravating circumstances", according to Justice Mapa, "can be applied only when they are as fully proven as the crime itself. Without clear and evident proof of their presence, the penalty fixed by the law for the punishment of the crime cannot be increased." [27] He reiterated the same view in a case decided two years later, *United States vs. Pordon*. [28] Thus: "The circumstances specifying an offense or aggravating the penalty thereof must be proved as conclusively as the act itself, mere suppositions or presumptions being insufficient to establish their presence according to law. No matter how truthful these suppositions or presumptions may seem, they must not and cannot produce the effect of aggravating the condition of the defendant." [29] It has been so since then. [30] Considering the absence of any competent and credible proof of evident premeditation, another excerpt from the opinion of Justice Mapa in *United States vs. Alvarez* is relevant: "The record contains no evidence showing that the defendant had, prior to the moment of its execution, resolved to commit the crime, nor is there proof that this resolution was the result of meditation, calculation, reflection and persistence." [31] There must be "that fixed determination" of perpetrating the offense. [32] "Premeditation," according to Justice Torres, "can not be considered because it does not appear that the defendants had deliberately planned beforehand the killing of the deceased." It must be "well-defined and established to aggravate the criminal liability of the defendant." [33] For in the language of Viada, what must be shown is "a studied and insistent tenacity in accomplishing the criminal object..." [34] Then there is this recent decision, *People vs. Mendova*, [35] where the authoritative doctrine is reaffirmed thus: "Evident premeditation qualified the offense, according to the lower court because 'the crime was carefully planned, the offenders having previously prepared the means they considered adequate. As there was no direct evidence of the planning or preparation, the court's conclusion may not be endorsed, since it is not enough

that premeditation be suspected or surmised, but the criminal intent must be evidenced by notorious outward acts evincing determination to commit the crime.' It is not 'premeditation' merely; it is 'evident' premeditation.'"[36] What clearly emerges therefore is that the lower court acted hastily in finding the existence of evident premeditation. The only aggravating circumstance present then is that of recidivism in view of the previous conviction of the accused for frustrated homicide. As against that, the mitigating circumstance of plea of guilt must be appreciated. The death penalty ought not to have been imposed.

WHEREFORE, the decision of Judge Pamaran of August 2, 1969 is modified. The accused is sentenced to reclusion perpetua. In all other respects, the decision stands affirmed.

Makalintal, C.J., Castro, Teehankee, Barredo, Makasiar, Esguerra, Muñoz Palma, Aquino, Concepcion Jr., and Martin, JJ., concur.

Antonio, J., took no part.

[1] People vs. Apduhan, L-19491. August 30, 1968, 24 SCRA 798.

[2] The latest case in point is People vs. Roa, L-35284, January 17, 1975, 62 SCRA 51, in between there were twenty-nine other decisions affirming Apduhan.

[3] T.s.n., Session of July 30, 1969, 2.

[4] Ibid.

[5] Ibid.

[6] Ibid.

[7] Ibid.

[8] Ibid.

[9] Ibid.

[10] Ibid. 3.

[11] Ibid.

[12] Ibid.

[13] Ibid.

[14] Ibid.

[15] Ibid. 4.

[16] Ibid.

[17] Ibid.

[18] Ibid.

[19] Ibid.

[20] Decision of the Circuit Criminal Court, August 2, 1969, 2-3.

[21] Ibid. 4.

[22] L-35877, December 20, 1974, 61 SCRA 468.

[23] Ibid. 473-474. *People vs. Apduhan*, L-19491, Aug. 30, 1968, is reported in 24 SCRA 798, while *Peole vs. Lacson*, L-33060, Feb. 25, 1974, is reported in 55 SCRA 589.

[24] Ibid. 474. *People vs. Busa*, L--32047, June 25, 1973 is reported in 51 SCRA 317.

[25] *United States vs. Barbosa*, 1 Phil. 741 (1903); *United States vs. De Jesus*, 25 Phil. 514 (1903).

[26] Cf. *United States vs. Ulat*, 7 Phil. 559 (1907); *United States vs. Idica*, 3 Phil. 713 (1907).

[27] *United States vs. Alvarez*, 3 Phil. 24, 32 (1903). Cf. *United States vs. Idica*, 3 Phil. 313 (1904).

[28] 4 Phil. 141 (1905).

[29] Ibid. 43 Cf. *United States vs. Rana*, 4 Phil. 231 (1905) and *United States vs. Elicanal*, 35 Phil. 209.

[30] Cf. *People vs. Vagallon*, 47 Phil. 332 (1925); *People vs. Concha*, 49 Phil. 212 (1926); *People vs. Dayug*; 49 Phil. 423 (1926); *People vs. Abril*, 51 Phil. 670 (1928); *People vs. Maalihan*, 53 Phil. 295 (1929); *People vs. Durante*, 53 Phil. 363 (1929); *People vs. Aguinaldo*, 55 Phil. 610 (1931); *People vs. Bumanglag*, 56 Phil. 10 (1931); *People vs. Lumasag*, 56 Phil. 19 (1931); *People vs. Embalido*, 58 Phil. 152 (1933); *People vs. Zapata*, 61 Phil. 792 (1935); *People vs. Bordador*, 63 Phil. 305 (1936); *People vs. Diokno*, 63 Phil. 601 (1936); *People vs. Aquino*, 68 Phil. 615 (1939); *People vs. Dumon*, 72 Phil. 41 (1941) *People vs. Jaurigue*, 76 Phil. 174 (1946); *People vs. Delgado*, 77 Phil. 11 (1946); *People vs. Patricio*; 79 Phil. 227 (1947); *People vs. Luneta*, 79 Phil. 815 (1948); *People vs. Amansec*, 80 Phil. 424 (1948); *People vs. Yadaon*, 82 Phil. 160 (1948); *People vs. Celespara*, 82 Phil. 399 (1948); *People vs. Calinawan*, 83 Phil. 647 (1949); *People vs. Tumaob*, 83 Phil. 738 (1949); *People vs. Villamora*, 86 Phil. 287 (1950); *People vs. Jumaun*, 98 Phil. 1 (1955); *People vs. Mendova*, 100 Phil. 811 (1957).

[31] *United States vs. Alvarez*, 3 Phil. 24,31-32 (1903).

[32] *United States vs. de la Torre*, 3 Phil. 516 (1904).

[33] *United States vs. Angeles*; 6 Phil. 480, 484 (1906).

[34] *United States vs. Rabor*, 7 Phil. 726, 729 (1907).

[35] 100 Phil. 811 (1957).

[36] Ibid. 818.

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