

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
TELESFORO HONDOLERO Y BRAZIL ALIAS “TELES”;
ACCUSED-APPELLANT.**

G.R. No. L-40633. August 25, 1976

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

In Criminal Case No. C-507 of the Court of First Instance of Leyte, Branch VI, Carigara, Leyte, the accused Telesforo Hondolero y Brazil, was charged with the crime of forcible abduction with rape and homicide, allegedly committed as follows:

"That on or about the 1st day of January, 1975, in the municipality of Carigara, province of Leyte and within the jurisdiction of this Honorable Court, the above-named accused armed with a bolo which he provided for the purpose, did then and there wilfully, unlawfully and feloniously abducted one REGINA LIGUTAN, a young girl, 11 years of age by then and there taking and dragging her away from the dwelling of her parents against her will and consent and with lewd designs; that at the same date and time and during the occurrence thereof, the above-named accused, did then and there wilfully, unlawfully and feloniously and by means of force and intimidation, have carnal knowledge of same Regina Ligutan against her will, as a consequence of which Regina sustained the hereunder injuries, to wit:

1. Laceration vaginal I.E. postmortem involving skin and soft tissue 6 o'clock
2. Hymen - Laceration 9 o'clock and 3 o'clock
3. Smear was taken from the posterior fernix microscopic examination.

"That on or about and during the occurrence thereof the said accused being then armed with a bolo which he provided for the purpose, did then and there wilfully, unlawfully and feloniously and taking advantage of nighttime and superior strength, did then and there assault, attack and wound said Regina Ligutan and inflicting upon her the following wounds, to wit:

- Wound stab, epigastrium 4 cm. long x 2 cm. wide penetrating abdominal cavity vertically oriented prolapse of the omentum.
- Wound stab, T & T middle 3rd of left thigh.
- Wound of entry - posterior aspect of thigh.
- Wound of Exit - Anterior aspect of thigh, left middle 3rd measuring 3 cm. long x 1 cm. wide.
- Wound stab, posterior aspect of middle 3rd of left forearm measuring 2 cm. long x 1/2 cm. wide muscle deep.
- Wound stab, posterior aspect of right forearm proximal 3rd measuring 3 cm. x 1 cm. wide muscle deep.[1]

which caused her death."

On January 30, 1975, the accused was arraigned. At the start of the session, Atty. Cabelin, counsel de oficio for the accused, made the following manifestation:

"Atty. Cabelin:

* * * After a long conference with the accused in the cell and also in the courtroom, after explaining to him the information against him after informing the accused of the statements taken from him during the preliminary investigation, still the accused informed this representation, that he intends and desires to plead guilty to the offense although at the time of the commission he did not know how it happened. He was out of his mind. He was drunk so another explanation was made upon him, Your Honor, and finally still decided to plead guilty to the offense so we have no other recourse than to submit that the accused is ready for arraignment."[2]

Thereafter, the following proceedings took place:

"COURT: . . . to accused.

Q. You are now informed that you are about to be arraigned, meaning you will be informed of the charges against you. Is it true that you intend to plead guilty to the offense of forcible abduction with rape and homicide?

A. I am guilty.

Q. Do you know what will come to you after you have pleaded guilty?

A. I am guilty.

(Interpreter repeating the question of the court.)

. . . (Accused does not answer. He keeps on looking down.)

Q. Specifically, do you know that once you plead guilty you will face the possibility of being burned in the electric chair? Do you know that or you don't know?

A. No, Your Honor, I do not know.

Q. All right, you are now informed formally and for the record that if you plead guilty you might be sent to the electric chair to die although that is not a sure thing because there is still the President of the Philippines that can still commute your sentence but not the courts.

A. I will receive the penalty to be imposed on me.

Q. Have you gone to school ever?

A. No, Your Honor.

Q. Why?

A. Because I was not sent to school when I was still young.

Q. You had your parents to support while still a boy?

A. My father and mother separated while I was still young and it was my grand-parents who looked after me.

Q. In what barrio were you living at the time that you would have gone to school?

A. Barrio Barayong.

Q. Where, Carigara?

A. Carigara.

Q. How far is that to the town?

A. It is not too far.

. . . Make it of record that that barrio named is about 3 1/2 kms. to the town.

Q. Are you married?

A. No, Your Honor.

Q. Before the incident, what was your means of livelihood?

A. Just enough for my personal needs.

. . . All right, I think we have given all the chances to back out.

Q. All right, for the second time, are you ready for arraignment?

A. Yes, Your Honor.

. . . To Atty. Cabelin

Atty. Cabelin, have you determined whether he is really ready for arraignment? For how long have you been assigned as counsel de oficio in this case, since when?

ATTY. CABELIN:

I was informed about 3 or 4 days ago, Your Honor, that I would be assigned as counsel de oficio for this accused.

COURT:

You satisfied yourself that there is nothing we can do?

ATTY. CABELIN:

I think there is no more way of making him change his stand.

COURT:

So we will arraign your client.

ATTY. CABELIN:

We are ready for arraignment, Your Honor.

COURT:

All right, arraign him.

(Interpreter reading the information in the local dialect.) Are you guilty or not?

ACCUSED: I am guilty, Your Honor.

COURT:

Q. You are not going to change that?

A. No, Your Honor.

. . . All right, enter the plea of guilty."[3]

Subsequently, on February 21, 1975, the trial court rendered its decision, the dispositive portion of which reads as follows:

"ALL THE FOREGOING CONSIDERED, the Court hereby renders judgment finding the accused Telesforo Hondolero y Brazil GUILTY of the crime of Forcible Abduction with Rape and Homicide defined and punished by Arts. 342, 335 and 249 in relation to Art. 48, all of the Revised Penal Code, and hereby imposes upon him the extreme penalty of DEATH, to be executed in accordance with the provisions of Arts. 81-85, Revised Penal Code, and further sentences him to pay to the heirs of the deceased victim civil indemnity in the amount of P12,000.00 and costs of this action."[4]

This case is now before Us for automatic review.

Atty. Arturo Alafritz, who was appointed by this Court as counsel de oficio for the accused-appellant, claims in his only assigned error that the lower court erred in imposing on him the death penalty without taking evidence independent of his plea of guilty.[5] The Solicitor General in his manifestation in lieu of appellee's brief likewise observes that the trial court failed to follow the procedure laid down by this Court in cases where the plea of guilty is entered in capital offenses.[6]

We have meticulously examined the records of this case, and We are convinced that the trial court failed to observe that degree of care which this Court has prescribed for a valid admission of a plea of guilty by an accused, especially where the commission of capital offenses is charged as in the present case.

To start with, the trial court did not at all explain to the accused-appellant the nature of the charge against him, especially the aggravating circumstances of nighttime and abuse of superior strength, which are terms so technical that, unless explained, a layman cannot possibly be expected to understand them, much less one who is unschooled like the accused-appellant. Moreover, the record reveals that the trial court did not propound any question to the accused-appellant on the circumstances attending the commission of the crime with which he was charged so as to leave no room for doubt as to the possibility of his misunderstanding the nature and gravity of the charge to which he was pleading guilty.[7] Furthermore, "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 the precise degree of culpability of the defendant."[8]

ACCORDINGLY, the decision appealed from is set aside, and this case is remanded to the court a quo for a new arraignment of the accused, and thereafter for further proceedings in accordance with law and consistently with the views herein expressed. No costs.

SO ORDERED.

Fernando, Actg. C.J., Teehankee, Makasiar, Antonio, Muñoz Palma, and Martin, JJ., concur.

[1] pp. 1-2, Record.

[2] pp. 2-3, t.s.n.

[3] pp. 4-6, t.s.n.

[4] pp. 21-22, Record.

[5] p. 2, Appellant's Brief.

[6] p. 14, Appellee's Manifestation.

[7] People vs. Francisco, 45 SCRA 451 citing People vs. Sabilul, 89 Phil. 283.

[8] People vs. Villafuerte, 56 SCRA 219 and cases cited therein.

CONCURRING

BARREDO, J.:

I believe that under the circumstances, the trial court should have entered a plea of not guilty for the accused-appellant.

CONCURRING

AQUINO, J.:

The case should be set for arraignment and trial. The fiscal should present his evidence.

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