

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODRIGO ENGLATERA, DEFENDANT-APPELLANT.

G.R. No. L-30820. July 31, 1970

Ponente: DIZON, J.

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DIZON, J.:

In the Circuit Criminal Court, 14th Judicial District, Rodrigo Englatera was charged with murder as follows:

"That on or about the 6th day of March, 1969, at about 2:00 o'clock in the afternoon, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused Rodrigo Englatera, armed with a bolo, with treachery and evident premeditation, with deliberate intent, and with intent to kill, did then and there suddenly and unexpectedly attack, assault and hack one Carmelita Ardiente on the head several times with said bolo, thereby inflicting upon him the following injuries:

'Intracranial Hemorrhage, laceration of brain, external hemorrhage, due to incised wounds of the head, chest, neck and extremities."

and as a consequence of which said Carmelita Ardiente died instantaneously."

Upon arraignment on May 20, 1969, the defendant, assisted by his counsel de oficio, pleaded not guilty. However, when the case was called for trial on July 8 of the same year, his counsel moved that the defendant be allowed to withdraw his plea of not guilty and sub-stitute it with a plea of guilty after proper arraignment. Without objection on the part of the prosecution the motion was granted, the defendant was arraigned anew, and he forthwith pleaded guilty as charged.

What transpired thereafter is set forth in the following portions of the appealed decision:

"At this instant, the defense invoked in favor of the accused only the mitigating circumstance of plea of guilty and prayed the Court that the aggravating circumstances alleged in the amended information, namely, '(a) by the accused taking advantage of his superior strength; (b) for having committed the crime without due regard to the opposite sex; (c) and by the accused deliberately augmenting in the commission of the crime by causing other wrong not necessary for its commission,' be disregarded on the grounds that the same is not applicable in the in-stant case, first, because superior strength is absorbed by treachery; second, because the aggravating circumstance without due regard to the opposite sex does not apply as there was no showing that there was disregard of sex, and lastly, that cruelty was not evident in the present case, thus, the three aggravating circumstances alleged in the information cannot be considered as against the accused in the imposition of the penalty. The defense further argued that with one aggravating circumstance of recidivism left which will be offset by the mitigating circumstance of plea of guilty, the penalty imposable would be the medium penalty which is that of reclusion perpetua.

"Special Counsel Vicente C. Fanilag, for the prosecution, vehemently objected to the manifestation of the defense and maintained a fighting stance that since the accused had already pleaded guilty to the allegations in the information of the charge of murder, the aggravating circumstance embodied in said information are therefore wholly admitted and could no longer be treated independently or absorbed into one aggravating

circumstance as mani-fested by the defense.

"In fairness to both parties, the Court required them to submit their respective memoranda and to cite therein their respective authorities in support of their respective contentions.

"After a careful review of the authorities and citations of the law presented by both parties, the Court is convinced that even if the three aggravating circumstances abovesaid were disregarded, for the sake of argument, still the allegations in the amended information which contains two qualifying circumstances, that of treachery and evident premeditation, and that it is a well-settled rule in our jurisprudence that only one is necessary to qualify the killing to the crime of murder and therefore the remaining qualifying circumstance should be treated as another aggravating circumstance, thus the result would be the same in the imposition of the penalty.

"The Supreme Court, in a long line of decisions, consistently defined this point when it said:

'That murder will exist with only one of the circumstances described in Art. 248 (U.S. vs. Labai, 17 Phil. 240).

'When more than one of said circumstances are present, the others must be considered as generic aggravating circumstance. Thus, when in killing the victim, the commission of the crime is attended by (1) evident premeditation, (2) treachery and (3) price, reward or promise, only one of them shall qualify the killing to murder and the others shall be considered as generic aggravating circumstances.' (Revised Penal Code, B. Reyes, pp. 424).

"After mature deliberation, the Court is of-the opinion and so holds that the maximum penalty for the commission of the crime of murder in this case should be imposed and the prayer of the accused to reduce the penalty in its medium penalty should be denied.

"Much as the Court wanted to reduce the penalty because it abhors capital punishment, but considering that it his sole duty to uphold the law even how personally unpleasant it is, the maximum penalty should be applied in this case."

In view of his plea of guilty, the lower court rendered judgment as follows:

"WHEREFORE, the Court finds the accused RODRIGO ENGLATERA guilty beyond reasonable doubt of the crime of MURDER as charged in the amended information for the killing of Carmelite Ardiente, and considering the miti-gating circumstance of his plea of guilty which cannot offset the five aggravating circumstances above-mentioned, and in consonance with the provisions of Article 248 of the Revised Penal Code, hereby sentences the accused RODRIGO ENGLATERA to the maximum penalty of DEATH, to pay the heirs of the deceased Carmelite Ardiente the sum of P12,000.00, without subsidiary imprisonment in case of insolvency in view of the nature of the penalty imposed, and to pay the costs."

According to the record on March 12, 1970 counsel de oficio, Atty. Joaquin Ramirez, filed a petition for new trial based mainly on the claim that "appellant's fundamental rights were violated, due process of law was not observed, and he stands about to lose his life in view of the disregard of his constitutional rights", because, in his opinion, not enough was done below, when appellant was rearraigned, to inform him of the nature of the charge and of the inevitable consequence of the plea of guilty that he intended to enter. On March 16, 1970, We resolved to defer action on the petition for new trial until the case is taken up on the merits, and without prejudice to raising the same issue in appellant's brief.

In the brief filed for the appellant by his counsel de oficio on April 13, 1970, he reiterates his petition that the appealed decision be set aside and that, there-after, the record of the case be remanded below for a new arraignment of the appellant in accordance with the procedure and practice outlined on pertinent decisions of this Court. In support of this renewed petition for new trial, appellant's brief says the following in part:

"D) Proceedings in the Lower Court.

What transpired in the Trial Court, when the appellant withdrew his plea of not guilty and entered one of guilty is shown in the so-called 'Minutes of the Proceeding,' which is reproduced hereinbelow in toto.

MINUTES OF THE PROCEEDING

May 20, 19 69

Stenographer: Adolfo B. Sanchez

FOR THE PROSECUTION:

Assistant City Fiscal Vicente Fanilag

FOR THE DEFENSE:

Atty. Amado Olis

The accused was arraigned this morning and pleaded not guilty to the charge.

CONTINUATION OF TRIAL

July 7, 1969

Steno: A. B. Sanchez

Both the prosecution agreed that this case be called again the following day July 8, 1969.

CONTINUATION OF TRIAL

July 8, 1969

Steno: A. B. Sanchez

The defense moved for the re-arraign-ment of the accused, without objection from the prosecution; the Court granted the same.

The accused after being read with the information, pleaded voluntarily and spon-taneously guilty to the crime of MURDER.

PROMULGATION OF JUDGMENT

July 15, 1969

Steno: A. B. Sanchez

The decision was read in open court with the presence of the accused, and the counsels for both parties.

THIS IS TO CERTIFY that the foregoing minutes of the proceedings in the above entitled case, at the aforementioned date, time, and place are the correct and true proceedings according to the best of my knowledge, accuracy and belief.

Cebu City, July 16, 1969.

(Sgd.) EMIGDIO M. TUMULAK

Interpreter"

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"The conduct of the Trial Court, with due respect, is a far cry from that of the Trial Court in the case of *People vs. Apduhan*, G. R. No. L-19491, Aug. 30, 1968, when it repeatedly warned the therein accused that despite the substitution of his plea of not guilty to one of guilty, the said Court might probably impose the death penalty. The said Court, in fact, later reopened the case to obtain that certainty required in this important matter.

"The Trial Judge in the *Apduhan* case was later on commended by this Honorable Court in *People vs. Solacito*, G. R. No. L-29209, Aug. 25, 1969, which this Honorable Court, thru Chief Justice Bengzon, remanded for new arraignment and trial.

"Yet, if the case at bar is compared to the *Solacito* case, it would seem that the Trial Judge here did far less than the judge in the said case, for in the *Solacito* case, the Trial Judge 'asked the accused whether he understands the meaning of a plea of guilty and whether he is admitting all the material averments in the information,' to which 'the accused answered in the affirmative.'

"In the instant case, not a single question was propounded by the Trial Judge. The said Trial Judge simply allowed the accused to withdraw his plea of not guilty and to enter a plea of guilty. No admonition in whatever manner was given. The voluntariness of the plea was not established thru questions from the Trial judge nor was the appellant's awareness that by pleading guilty to murder with FIVE (5) aggravating circumstances, he will probably be sentenced to die.

"Herein appellant therefore respectfully reiterates his Petition for New Trial, which as aforesaid is adopted herein and made an integral part of this Brief, and that this case be remanded to the Trial Court for new arraignment and trial.

"E) Appeal to the Solicitor General.

"In our petition for new trial, We requested the Honorable Solicitor General, considering the clear denial of appellant's fundamental rights in this case, to join us in petitioning this Honorable Court to order a new arraignment and trial. We reiterate this appeal for we honestly feel that this is one case where the Solicitor General is left with no reasonable alternative but to join us in pleading for appellant's cause."

On July 7, 1970 instead of filing the brief for the State, Solicitor General Felix Q. Antonio, Assistant Solicitor General Crispin B. Bautista, and Solicitor Pedro E. Ramirez filed a MANIFESTATION AND MOTION joining "counsel de oficio for the appellant in his motion for new trial" and praying also that the appealed decision be set aside and the case remanded below for further proceedings.

We have gone over the record and We find that the motion for new trial mentioned heretofore is justified. The present being one for murder for which the defendant was sentenced to suffer the maximum penalty of death, We find it proper to invite the attention of the court a quo and of all trial courts in general to what We said in *People vs. Apduhan*, G. R. L--19491, August 30, 1968 and *People vs. Solacito*, G. R. No. L-29209, August 25, 1969 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.

WHEREFORE, the decision appealed from is hereby set aside and the record of the case is remanded below for further proceedings, specifically to have the defendant arraigned once more, with assistance of counsel, and with full information regarding the nature and gravity of the offense charged, the penalty that might be imposed upon him if he pleads guilty, and of all other rights that he might be entitled to under the law. With costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

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