

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMUALDO RICALDE, DEFENDANT-APPELLANT

G.R. No. L-34673. January 30, 1973

Ponente: CASTRO, J.

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CASTRO, J.:

The defendant-appellant Romualdo Ricalde (together with Armando Forbes and seven John Does) was indicted for the murder of one Benjamin Smith allegedly committed on the occasion of a gang war inside the prison yard of Fort Andres Bonifacio in Makati, Rizal. Docketed as Criminal Case C.C.C. VII 469-Rizal, the charge against Ricalde, et al. was heard by the Criminal Circuit Court holding sessions in Pasig, Rizal.

When arraigned on September 14, 1970, both the two accused present pleaded not guilty to the information, as amended.

The amended information recites:

"That on or about the 10th day of March, 1970, at Fort Andres Bonifacio, in the Municipality of Makati, province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then prisoners confined at said Fort Bonifacio, conspiring and confederating together with seven (7) John Does (prisoners) whose true identities are still unknown, and all of them mutually helping and aiding one another, with intent to kill, evident premeditation and treachery, did, then and there wilfully, unlawfully and feloniously attack, assault and stab with deadly weapons Prisoner Benjamin Smith, as a result of which, the latter sustained stab wounds on the different parts of his body which directly caused his death.

"That with respect to Accused Romualdo Ricalde, the latter is a recidivist, he having been previously convicted by final judgment of another crime embraced in the same title of the Revised Penal Code, to wit: Crim. Case No. CCC-VII405-Rizal, sentenced on June 13, 1970 with death penalty of the crime of murder.

"Contrary to law, and with the aggravating circumstance of taking advantage of superior strength present in the commission of the crime."

On the date set for the trial (September 18, 1970), the following proceedings took place:

"ATTY. GAL VAN (counsel de oficio for the accused Ricalde and Forbes):

"After my investigation in the Provincial Jail and after we talked here in Court, Romualdo Ricalde is withdrawing his former plea of not guilty and substituting it with a plea of guilty. Armando Forbes is not withdrawing his plea of not guilty.

"COURT:

(to the accused Romualdo Ricalde)

"Q Are you aware of the consequence of your change of plea of not guilty to that of guilty?

"A I am aware, Your Honor.

"Q That there is no other penalty to be imposed by the Court except death penalty?

"A Yes, Your Honor.

"Q Notwithstanding your plea of guilty?

"A Yes, Your Honor."

Following this brief exchange, the trial judge immediately dictated his decision in open court, convicting the defendant Ricalde of the crime of murder and imposing on him the death penalty.

This case is now before us on automatic appeal.

In his brief for the appellant, counsel Saklolo A. Leano makes the following pointed observations:

"Charged with capital offense punishable by death, appellant Ricalde initially pleaded not guilty. Four (4) days later, he revised the same and entered a plea of guilty.

"Although there were three lines in the transcript, in reality the Trial Court asked only two questions. The first was whether appellant was all aware of the consequences of his change of plea. The second was whether he was aware that no other penalty is imposable than death notwithstanding his plea of guilty. The proceeding was cursory. It was sketchy, too brief and all legalase.

"The proceedings are recorded in English and unless the contrary is shown, the presumption is that it was conducted in English. But the records do not show that the Trial Court first satisfied itself that appellant Ricalde fully understood English in the manner it was spoken. He was not asked whether he clearly understood the import of the questions asked by the Court and the answers he gave. His educational attainment was not inquired into. He was not asked whether he completely realized the gravity of the averments of the Amended Information. His attention was not specifically called to the two aggravating circumstances alleged in the information and the effect they have on his plea. He was not asked if these aggravating circumstances are true. He was not advised to consult his counsel de oficio before answering the Court. Nor was he asked if he can establish mitigating circumstances to reduce his penalty. Much less was he asked why he was pleading guilty after he had earlier manifested the opposite. There is more than ample ground to suggest that the plea and the guilt of appellant Ricalde was not beyond reasonable doubt.

"The Trial Court should have at the outset wondered at this diametric turn about. Caution and extra-solicitousness over one's Constitutional rights demanded a careful deep probing into the motive or background of the plea, lest justice unwittingly be miscarried. It should have ordered that evidence be presented to clear doubts as to the guilt or innocence of appellant Ricalde. For it is too well known that a desperate man would accept the most serious of crimes out of sheer hopelessness, of massive fear of greater harm or injury to self, and many other reasons absolutely unrelated to his guilt. The Trial Court it is respectfully submitted did not observe its duty in a case where an accused pleads guilty to a capital offense.

"Due process imposes upon Trial Courts the Constitutional duty, consistent with the presumption of innocence, of making fully certain that an accused who pleads guilty is in truth guilty. Hence, the need for extra-solicitousness. The semblance of precaution taken by the Trial Court in this case is 'inadequate and short of the Constitutional requirement of due process where an accused makes a plea of guilty to a capital offense epitomized in the Aduhan case.

"Had the Trial Court done its duty, it would not have accepted the plea. For sure, it would have resolved the doubt against the plea and required evidence to be presented.

"In a letter to counsel, xerox copy attached as Annex B and made part hereof, appellant Ricalde disclosed the reasons for his guilty plea and the circumstances that compelled him to do so. At the time the letter was written and received, appellant Ricalde had not met counsel.

"Uncontrollable fear of death in the hands of those he will have constantly to live with after the day in court, desperation and hopelessness, (and) prompted the plea. The plaintive cries of a man wronged and about to die speak for itself. All these could have surfaced had the Trial Court taken special note of the sudden change of plea, took time out, acted like a father, exerted efforts to get appellant Ricalde's confidence, and probed piercingly into what underlied the admission of guilt. And perhaps the Trial Court would have learned as appellant Ricalde disclosed to counsel in their first meeting in the National Penitentiary this afternoon that—

- a) appellant Ricalde reached only second year high school in 1961;
- b) the case for which he was allegedly convicted is pending with this Honorable Court;
- c) appellant Ricalde did not kill Benjamin Smith and he can identify those who did;
- d) The incident where Benjamin Smith was killed in a riot that happened at night and he was in a different cell."

Concurring essentially in the above observations, the Solicitor General makes the following remarks:

"As early as U.S. vs. Talbanos, 6 Phil. 541, followed by U.S. vs. Rota, 9 Phil. 426 and U.S. vs. Agcaoili, 31 Phil. 91, this Honorable Court set forth the proper and prudent course a trial judge should take when the accused enters a plea of guilty, in all cases, especially those involving capital offenses, in this wise: 'x x x the court should be sure that the defendant fully understands the nature of the charges preferred against him and the character of the punishment to be imposed before sentencing him. While there is no law requiring it, yet, in every case under the plea of guilty, where the penalty may be death, it is advisable for the court to call witnesses for the purpose of establishing the guilt and the degree of culpability of the defendant.'

"This salutary and well-settled rule consistently adhered to, became more pronounced starting with the case of People v. Aduhan, L-19491, August 31, 1968, where this Honorable Court, per Mr. Justice Fred Ruiz Castro, had occasion to commend Hon. Hipolito Alo of the Court of First Instance of Bohol, for his earnest and patient efforts to forestall the entry of an improvident plea by the accused Aduhan. Said the Court:

'x x x Judge Alo made sure that the accused clearly and fully understood the seriousness of the offense charged and the severity of the penalty attached to it. When the accused proposed to confess his guilt, Judge Alo repeatedly warned him that the death penalty might be imposed despite his plea of guilty. As aforementioned, when it appeared that Aduhan's plea of guilty was ambiguous, Judge Alo reopened the case to determine with definiteness the nature of his plea.

"The virtue of Judge Alo's efforts in ascertaining whether Aduhan pleaded guilty with full knowledge of the significance and consequences of his act, recommends itself to all trial judges who must 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.'

"The constant concern of this Honorable Court on the manner a trial court should discharge its functions in cases where an accused pleads guilty to a capital offense was firmly established in numerous cases among which are: *People v. Solacito*, L-29209, August 25, 1969; *People v. Englatera*, L-30820, July 31, 1970; *People v. Estebia*, L-26868, July 29, 1971; *People v. Flores*, L-32692, July 30, 1971; *People v. Francisco*, L-30763, June 29, 1972; and more recently, *People v. Espina*, L-33028, June 30, 1972.

"As pointed out by counsel de oficio, and the three-page transcript of the proceedings and decision would clearly indicate, the trial judge limited himself to asking three brief questions from the appellant, but which could be summarized into two. These are: whether the appellant was aware of the consequence of his change of plea from not guilty to that of guilty; and, that notwithstanding such plea of guilty, the only penalty to be imposed by the court was that of death (p. 2, tsn.).

"The court a quo did not ascertain for itself whether the appellant understood the full meaning, significance and implications of his plea of guilty. Although three aggravating circumstances were included in the amended information, the court failed to inform the appellant of said aggravating circumstances and their effect on his plea. Neither did the court ask the appellant if he could establish some mitigating circumstances to reduce his penalty. No inquiry was made why the appellant had a sudden change of plea after he earlier pleaded not guilty to the charge against him.

"Indeed, the trial court failed to take the necessary precautions against the improvident plea of guilty entered by the appellant before passing judgment upon him."

We have painstakingly reviewed the record, and we find that aside from the amended information and the sketchy transcript of the proceedings below, there is no other basis for a proper review of the decision of the trial court. Under the circumstances, we feel that we can not conscientiously perform our function of review in this case.

Our previous decisions have repeatedly warned against the danger of the plea of guilty being improvidently entered in capital cases. We have uniformly stressed the importance of the trial court's receiving evidence notwithstanding the plea of guilty in order that no reasonable doubt may remain as to the guilt and the degree of culpability of the accused.[1] We have time and time again reminded judges that they 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 inevitable conviction.[2]

In the case at bar, we are not satisfied that the trial judge has properly discharged this basic duty enjoined of him.

As pointed out by both the counsel for the appellant and the Solicitor General, the trial judge limited himself to asking two brief questions from the appellant: whether the appellant was aware of the consequences of his change of plea from not guilty to that of guilty, and whether the appellant knew that notwithstanding such plea of guilty the only possible penalty was that of death. The record is completely bereft of any indication that the court diligently ascertained for itself whether the appellant completely understood the full meaning, significance and implications of his plea of guilty. The court likewise failed to inform the appellant of the aggravating circumstances alleged in the amended information and their effect on his plea. Again, the court failed to ask the appellant whether he was invoking mitigating circumstances in his favor. Finally, the court did not make any inquiry, which inquiry was obviously called for, why the appellant had a sudden change of plea after he had previously pleaded not guilty to the charge against him.[3] In sum, the trial court failed to take the necessary precautions to forestall the entry by the appellant of an improvident plea of guilty before passing judgment upon him.

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

Makalintal, Zaldivar, Fernando, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

Concepcion, C.J., did not take part.

[1] United States vs. Jamad, 37 Phil. 305; People vs. Bulalake, 106 Phil. 767; People vs. Arpa, L-26789, 27 SCRA 1037.

[2] People vs. Apduhan, Jr., L-19491, August 30, 1968, 24 SCRA 798; People vs. Villas, L-20953, April 21, 1969, 27 SCRA 947; People vs. Arpa, L-26789, April 25, 1969, 27 SCRA 1037; People vs. Mongado, L- 24877, June 30, 1969, 28 SCRA 642; People vs. Nabual, L-27758, July 14, 1969, 28 SCRA 747; People vs. Solacito, L-29209, August 25, 1969, 29 SCRA 61; People vs. Serafica, L-29092, August 28, 1969, 29 SCRA 123; People vs. Tilos, L-27151, November 29, 1969, 30 SCRA 734; Longao vs. Fakat, L-23978, December 27, 1969, 30 SCRA 866; People vs. Englatera, L-30820, July 31, 1970, 34 SCRA 245; People vs.. Espejo, L-27708, December 19, 1970, 36 SCRA 400; People vs. Añuilar, January 29, 1971, 37 SCRA 115; and People vs. Flores, L-32692, July 30, 1971, 40 SCRA 230.

[3] It should be mentioned that the case against Armando Forbes, Ricalde's co-accused, was dismissed (without prejudice) on October 9, 1970, on motion of the prosecution, due to the fact that the Government's witnesses were either retracting their testimony, or refusing to testify for fear of their lives, or otherwise were of doubtful credibility. It is not difficult to surmise that had not Ricalde withdrawn his previous plea of not guilty, the case against him would have been similarly provisionally dismissed since, as may be gathered from the information, the witnesses against him are the very same ones the State intended to utilize against Forbes.

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