

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. FRISCO HOLGADO, DEFENDANT AND APPELLANT.

G.R. No. L-2809. March 22, 1950

Ponente: MORAN, C.J.

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MORAN, C.J.:

Appellant Frisco Holgado was charged in the Court of First Instance of Romblon with slight illegal detention because according to the information, being a private person, he did "feloniously and without justifiable motive, kidnap and detain one Artemia Fabreag in the house of Antero Holgado for about eight hours thereby depriving said Artemia Fabreag of her personal liberty."

On May 8, 1948, the day set for the trial, the trial court proceeded as follows:

"Court:

Is this case ready for trial?

"Fiscal:

"I am ready, your Honor.

"Court:—to the accused

"Q Do you have an attorney or are you going to plead guilty?—

A. I have no lawyer and I will plead guilty.

"Court:

Arraign the accused.

"Note:

"Interpreter read the information to the accused in the local dialect after which he was asked this question.

"Q. What do you plead?—

A. I plead guilty, but I was instructed by one Mr. Ocampo.

"Q Who is that Mr. Ocampo, what is his complete name?—

A. Mr. Numeriano Ocampo.

"The Provincial Fiscal is hereby ordered to investigate that man.

"Fiscal:

"I have investigated this case and found out that this Ocampo has nothing to do with this case and I found no evidence against this Ocampo.

"Court:

"Sentence reserved."

Two days later, or on May 10, 1948, the trial court rendered the following judgment:

"[Criminal Case No. V-118]

"THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FRISCO HOLGADO
DEFENDANT-APPELLANT

"SLIGHT ILLEGAL DETENTION

'SENTENCE

"The accused, Frisco Holgado, stands charged with the crime of kidnapping and serious illegal detention in the following

"INFORMATION

"That on or about December 11, 1947, in the municipality of Concepcion, Province of Romblon, Philippines, and within the jurisdiction of this Honorable Court, the said accused being a private individual, did then and there wilfully, unlawfully and feloniously, and without justifiable motive, kidnap and detain one Artemia Fabreag in the house of Antero Holgado for about 8 hours thereby depriving said Artemia Fabreag of her personal liberty.

"Contrary to Law."

"This case is called for trial on May 8, 1948. Upon arraignment the accused pleaded guilty to the information above described.

"The offense committed by the accused is kidnapping and serious illegal detention as defined by Article 267 of the Revised Penal Code as amended by Section 2 of Republic Act No. 18 and punished by reclusion temporal in its minimum period to death. Applying indeterminate sentence law the penalty shall be prision mayor in its maximum degree to reclusion temporal in the medium degree, as minimum, or ten (10) years and one (1) day of prision mayor to twenty (20) years, with the accessory penalties for by law, with costs. The accused is entitled to one-half of his preventive imprisonment."

It must be noticed that in the caption of the case as it appears in the judgment above quoted, the offense charged is named "SLIGHT ILLEGAL DETENTION" while in the body of the judgment it is said that the accused "stands charged with the crime of kidnapping and serious illegal detention." In the information filed by the Provincial Fiscal it is said that he "accuses Frisco Holgado of the crime of "Slight Illegal Detention." The facts alleged in said information are not clear as to whether the offense charged is merely "slight illegal detention" as the offense is named therein or the capital offense of "kidnapping and serious illegal detention" as found by the trial Judge in his judgment. Since the accused-appellant pleaded guilty and no evidence appears to have been presented by either party, the trial Judge must have deduced the capital offense from the facts pleaded in the information.

Under the circumstances, particularly the qualified plea given by the accused, who was unaided by counsel, it was not prudent, to say the least, for the trial court to render such a serious judgment finding the accused guilty of a capital offense, and imposing upon him such a heavy penalty as ten years and one day of prision mayor to twenty years, without absolutely any evidence to determine and clarify the true facts of the case.

The proceedings in the trial court are irregular from the beginning. It is expressly provided in our Rules of Court,

Rule 112, sec. 3, that:

"If the defendant appears without attorney, he must be informed by the court that it is his right to have attorney before being arraigned, and must be asked if he desires the aid of attorney. If he desires and is unable to employ attorney, the Court must assign attorney de oficio to defend him. A reasonable time must be allowed for procuring attorney."

Under this provision, when a defendant appears without attorney, the court has four important duties to comply with: 1—It must inform the defendant that it is his right to have attorney before being arraigned; 2—After giving him such information the court must ask him if he desires the aid of an attorney; 3—If he desires and is unable to employ attorney, the court must assign attorney de oficio to defend him; And 4—If the accused desires to procure an attorney of his own the court must grant him a reasonable time therefor.

Not one of these duties had been complied with by the trial court. The record discloses that said court did not inform the accused of his right to have an attorney nor did it ask him if he desired the aid of one. The trial court failed to inquire whether or not the accused was to employ an attorney, to grant him reasonable time to procure one or to assign an attorney de oficio. The question asked by the Court to the accused was "Do you have an attorney or are you going to plead guilty?" Not only did such a question fail to inform the accused that it was his right to have an attorney before arraignment, but, what is worse, the question was so framed that it could have been construed by the accused as a suggestion from the court that he plead guilty if he had no attorney. And this is a denial of fair hearing in violation of the due process clause contained in our Constitution.

One of the great principles of justice guaranteed by our Constitution is that "no person shall be held to answer for a criminal offense without due process of law", and that all accused "shall enjoy the right to be heard by himself and counsel." In criminal cases there can be no fair hearing unless the accused be given an opportunity to be heard by counsel. The right to be heard would be of little avail if it does not include the right to be heard by counsel. Even the most intelligent or educated man may have no skill in the science of the law, particularly in the rules of procedure, and, without counsel, he may be convicted not because he is guilty but because he does not know how to establish his innocence. And this can happen more easily to persons who are ignorant or uneducated. It is for this reason that the right to be assisted by counsel is deemed so important that it has become a constitutional right and it is so implemented that under our rules of procedure it is not enough for the Court to apprise an accused of his right to have an attorney, it is not enough to ask him whether he desires the aid of an attorney, but it is essential that the Court should assign one de oficio for him if he so desires and he is poor or grant him a reasonable time to procure an attorney of his own.

It must be added, in the instant case, that the accused who was unaided by counsel pleaded guilty but with the following qualification: "but I was instructed by one Mr. Ocampo." The trial court failed to inquire as to the true import of this qualification. The record does not show whether the supposed instruction was real and whether it had reference to the commission of the offense or to the making of the plea of guilty. No investigation was opened by the Court on this matter in the presence of the accused and there is now no way of determining whether the supposed instruction is a good defense or may vitiate the voluntariness of the confession. Apparently the Court became satisfied with the fiscal's information that he had investigated Mr. Ocampo and found that the same had nothing to do with this case. Such attitude of the court was wrong for the simple reason that a mere statement of the fiscal was not sufficient to overcome a qualified plea of the accused. But above all, the court should have seen to it that the accused be assisted by counsel specially because of the qualified plea given by him and the seriousness of the offense found to be capital by the Court.

The Judgment appealed from is reversed and the case is remanded to the court below for a new arraignment and a new trial after the accused is apprised of his right to have and to be assisted by counsel. It is so ordered.

Ozaeta, Pablo, Bengzon, Padilla, Tuason, Montemayor, and Reyes, JJ., concur.

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