

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JULIO VALERA AND ERNESTO IMPERIAL, DEFENDANTS, ERNESTO IMPERIAL, DEFENDANT-APPELLANT.

G.R. No. L-30039. February 08, 1972

Ponente: REYES, J. B. L., J.

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REYES, J. B. L., J.:

Automatic review of the judgment rendered by the Court of First Instance of Oriental Mindoro, in its Criminal Case No. R-409-P, imposing the penalty of death upon accused-appellant Ernesto Imperial, on his plea of guilty to an information for robbery with double homicide.

The information filed with the court a quo on 23 September 1967 charged Julio Valera, alias Juan Madrid, and herein accused-appellant Ernesto Imperial for conspiratorially killing the spouses Marcial Jalotjot and Valeriana Hernandez and robbing them of cash and valuables amounting to P4,175.00, on 6 August 1967, in sitio Putingtubig, barrio of Lumangbayan, Pinamalayan, Oriental Mindoro. The information alleged seven (7) qualifying and aggravating circumstances, namely: treachery, superior strength, nocturnity, cruelty, craft, and dwelling, aside from recidivism.

Appellant Imperial had previously entered a plea of not guilty but, later on, withdrew it and changed it to a plea of guilty, with the following circumstances surrounding both pleas, as recorded in the minutes of the proceedings in the trial court:

14 March 1968 — Atty. Gumersindo Manalo was appointed "de officio counsel for the arraignment of the two accused." Accused Valera and Imperial individually pleaded not guilty.[1]

2 April 1968 — Atty. Miguel Ansaldo, Jr. prayed that he be relieved as counsel de officio for Imperial; the court denied it, and retained him "until counsel de parte of accused Imperial will appear on April 22, 1968, as per manifestation of said accused Imperial." [2]

24 April 1968 — Hearing postponed, on motion of counsel for Valera.[3]

2 July 1968 — Atty. Ansaldo, Jr., for accused Imperial, did not appear. Court ordered his arrest. Hearing postponed.[4]

3 July 1968 — Atty. Ansaldo, Jr. did not appear. Court appointed Atty. Luis Vilorio as counsel de officio for accused Imperial. Hearing postponed.[5]

16 July 1968 — Atty. Ansaldo, Jr. appeared for Imperial; he manifested that accused Imperial will withdraw his former plea of not guilty and to substitute the same to guilty. Imperial was arraigned anew and he pleaded guilty.[6]

Before appellant Imperial was arraigned, on 16 July 1968, counsel Ansaldo, Jr. informed the court that he had studied the record of the case and "found out that Ernesto Imperial has an admission of guilt;" that the "evidence

against him is very strong;" wherefore, counsel had advised his client that to proceed to trial would be futile, and upon such advice appellant Imperial had intimated to counsel his wish to be re-arraigned and to change his former plea of not guilty to that of guilty.[7] The court, thereupon, stated that it wanted to satisfy itself of the correctness of Ansaldo's manifestation from the very lips of Imperial, and, accordingly, asked Imperial each facet of the manifestation and asked what he had to say on said manifestation. Imperial answered "That is true, Your Honor." When Imperial answered in the affirmative, the court observed that he was smiling.[8] Then the court inquired whether he was ready to be re-arraigned with the assistance of Attorney Ansaldo, to which the accused also replied in the affirmative. At this juncture, Attorney Ansaldo interposed that before accused Imperial should be re-arraigned, the aggravating circumstance of recidivism against him should be deleted from the information. The fiscal conformed, and the court granted the correction made and it was initialed by the fiscal upon the face of the information. On order of the court, the court's interpreter then read the information "in tagalog dialect which the accused speaks and understand." Accused Imperial pleaded guilty.[9]

In the absence of an explanation why Attorney Ansaldo, Jr. asked to be relieved as counsel de oficio just as soon as he was so appointed by the trial court; why he failed to appear for the trial of the case on 2 July 1968, when the court ordered his arrest, and on 3 July 1968, when the court had to appoint another (the third) counsel de oficio; and that when Ansaldo appeared on 16 July 1968 he informed the court that his client, upon his advice, wished to change his previous plea of not guilty to one of guilty, this Court is forced to conclude that counsel was not disposed to discharge his duties as counsel de oficio; and it was naive for the court a quo to have proceeded to re-arraign the accused with a counsel of such disposition and expect that the rights of the accused would be amply protected. It is to be noted in Ansaldo's manifestation that he merely advised the accused of the futility of proceeding to trial but he did not advise him of the consequences of a change of plea. Without such advice, did the accused know the consequences of his changed plea? If he did, why did he smile (an odd reaction of a man facing death) when the accused affirmed the correctness of Ansaldo's manifestation? Was such a smile one in relief of conscience, or one in ignorance that his change of plea would not alter the penalty of death imposable upon him, since the single mitigating circumstance of plea of guilty could not offset the seven (7) other aggravating circumstances alleged in the information? These questions impress upon Us a lingering doubt that the accused by himself, and without advice from counsel, actually knew the consequences of changing his plea from not guilty to that of guilty; and that doubt should be resolved in his favor. For as early as *U.S. vs. Talbanos*, 6 Phil. 541, the admonition was made that in cases where the punishment to be inflicted is severe, the court must assure itself that the accused is fully aware of the implications of a plea of guilty; for, in the words of Justice Makalintal, in the recent case of *People vs. Flores*, L-32692, 30 July 1971.[10]

"The norm that should be followed where a plea of guilty is entered by the defendant, especially in cases where the capital penalty may be imposed, is that the court should be sure that defendant fully understood the nature of the charges preferred against him and the character of the punishment provided by law before it is imposed."

Under the circumstances, prudence dictated that the Court should take some evidence in order to be reasonably certain that no injustice was being done to the accused, as pointed out in *People vs. Alincastre, et al.*, L-29891, 30 August 1971,[11] and the cases cited therein.

WHEREFORE, the decision under review is set aside and the case ordered remanded to the court a quo for a new re-arraignment and for further proceedings conformable to this opinion. No pronouncement as to costs.

Concepcion, CJ., Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] Record, page 7.

[2] Id., page 8.

[3] Id., page 9.

[4] Id., page 10.

[5] Id., page 11.

[6] Id., page 12.

[7] T.s.n., page 2.

[8] T.s.n., page 3.

[9] T.s.n., pages 4-5.

[10] 40 SCRA 230.

[11] 40 SCRA 391.

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