

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REGINO BACONG, DEFENDANT-APPELLANT.***G.R. No. L-36161. December 19, 1973*

Ponente: FERNANDO, J.

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This Tribunal once again, and instances have not been too rare of late, is confronted with the necessity of setting aside a plea of guilty improvidently made, in a capital offense indictment resulting in the death sentence being imposed. It is re-assuring that here, as in several other cases of recent years, the Solicitor General did join forces with the defense counsel in properly characterizing the actuation of the lower court as lack-ing fidelity to the controlling legal standard and thus lending vitality to the constitutional rights of an accused. Two of our most recent decisions cited by the Solicitor General did stress that aspect. In *People v. Estebia*,^[1] it was the presumption of innocence^[2] to which attention was called. Then in *People v. Espiña*,^[3] the due process^[4] mandate was emphasized. Briefly, what did happen here was that on the very day of the arraignment, the lower court did accept a plea of guilty from an accused based on an information written in a language with which he was hardly familiar, without the judge explaining to him fully its direful effects. What made the deviation from the constitutional norm even more inexcusable was that the decision of conviction announced that very day contained the rather unorthodox feature of requiring the prosecution to present its evidence on a subsequent date, for all the good it did the accused, his fate having been foreordained. It is thus obvious why the conviction of the accused cannot be sustained.

The facts are undisputed. As set forth in the discussion of the error imputed to the lower court to the effect that it did not observe that quantum of care prescribed by this Tribunal for a valid admission of a plea of guilty: "The decision of the lower court shows how and to what extent the lower court exercised its duty in this particular case. * * * From the decision itself, it appears that the accused was arraigned on August 19, 1972, duly assisted by counsel de oficio, Atty. Jaime del Rosario. * * * According to aforesaid decision, 'the accused was informed in Tagalog, a dialect known to him, that because of his plea of guilty, the imposable penalty is death. However, despite this warning, he still insisted on pleading guilty and [was] ready to accept the penalty to be imposed upon him no matter how grave it may be.' * * * The record does not disclose, however, that the counsel de oficio had sufficient time to confer with the accused in order to apprise him of the gravity of the offense for which he stands charged and the possible consequences of his plea of guilty. Neither is there an indication in the records that this counsel de oficio devoted at least reasonable and material time in studying this case and in going over the evidence of the case. It appears that the accused is an ignorant and illiterate person, a neophyte in the national penitentiary, and one fully conversant [only] with his native Visayan. This is apparent from his statement, thus: '26. T. Marunong ka bang bumasa at sumulat ng wikang tagalog? S. Naka-uunawa po ako sir, pero hindi po ako masyadong marunong, ang tangi ko pong naiisulat ay ang aking pangalan.' * * * An observation and closer look of his signature indeed reveal that the accused is an illiterate and unschooled person. The strokes of his signature are irregular, halting, and show a difficult and laborious effort to write the letters of his name. * * * In his signature on file with this Honorable Court, the same observations can be made. There is no showing that the

lower court explained the meaning or import of the allegations of 'treachery' and 'evident premeditation.' As to whether these allegations were translated or explained in Tagalog or Visayan and, if so, in what way or manner these were explained in layman's language, the records do not disclose. Admittedly, the accused is a Visayan and still a neophyte in the national penitentiary who does not understand well Tagalog. * * * We cannot expect the accused to have fully understood the legal signification of these qualifying circumstances which allegations had even been the subject of various interpretations of our courts. * * *"[5]

Thereafter, Solicitor General Estelito P. Mendoza filed a manifestation and motion in lieu of appellee's brief, where the following appears: "4. We are constrained to agree with appellant's contention that the trial court failed to follow the guidelines set by this Honorable Court in the conduct of arraignment of accused persons pleading guilty to offenses carrying capital punishment. In the arraignment here, the trial court readily accepted accused-appellant's plea of guilty without explaining to him the meaning and far-reaching effects of his plea of guilty. This violates the directive of this Honorable Court that the trial court should clearly explain to the accused the meaning and possible consequences of his plea of guilty in order to preclude any doubt that he enters his plea voluntarily and intelligently. * * * 5. In the case at bar, the trial court even noted upon arraignment 'the accused manifested in open court that he had no intention to commit so grave a wrong, so that after the incident, he became remorseful and voluntarily surrendered to the prison authorities.' The foregoing shows that accused-appellant's plea of guilty is not unconditional. Hence, the trial court should have required the prosecution to present its evidence before it rendered judgment. In accepting the plea of accused-appellant without requiring the presentation of evidence, the trial court violated the rule laid down by this Honorable Court that a plea of guilty must be an unconditional admission of guilt * * *."[6] Now as to the rather unusual aspect of the case where the lower court, as if to make amends, did, in such decision, require the prosecution to present evidence of his guilt. On that point, Solicitor General Mendoza stated the following: "While it is true that the trial court required the prosecution to present evidence 'to determine the degree of culpability of the accused' * * *, such proceeding remained an absolute nullity. The decision of the trial court was rendered on August 19, 1972, although the hearing for the reception of evidence was conducted on November 11, 1972, or almost two (2) months after the rendition of the judgment; the earlier decision remained unmodified, that is, the court a quo did not render a new decision based on the evidence presented by the prosecution. This is anomalous, to say the least; it is like, in a manner of speaking, putting the cart before the horse."[7]

It would be a grave departure then, considering the above, from what has been so consistently held in a number of recent decisions, one moreover without rhyme or reason, if the lower court decision were to be upheld. As made clear at the begin-ning, we sustain the plea of reversal of both the accused and the Solicitor General.

- While the need for the utmost care on the part of lower courts in accepting pleas of guilty improvidently made was given prominence in *People v. Apduhan*,[8] the insistence on an accused being fully aware of the consequences of such a fateful step as a requirement of procedural due process is traceable to *United States v. Agcaoili*,[9] decided in 1915. In *People v. Andaya*,[10] promulgated in July of this year, twenty-one other decisions of a similar character since *Apduhan* were noted.[11] The last three cases in point, *People v. Pohong*,[12] *People v. Duque*,[13] and *People v. Saligdan*[14] are of even more recent date, the ponente in each of them being Justice Castro. How else could this Court dispose of such lower court decisions suffering from the corrosion of a grave substantial error of constitutional dimension?

Aptly has it been remarked that the judiciary is called upon to dispense justice. Thus it must hold the balance true. Nor is it enough that such be the case. What is equally important for the continuing faith of the people in it is that the appearance must conform with reality. For the State is vitally interested, and rightly so, in the apprehension and punishment of malefactors through its prosecuting arm and with the indictment presented in the name of the People itself. It is thus indispensable that courts should ever be on their guard lest they give rise to doubts about

their fairness and objectivity. That is implicit in the very concept of due process enshrined in the 1935 Constitution. It is made explicit in one of the modifications introduced in a provision in the article on the Bill of Rights where the accused is vouchsafed "a speedy, impartial, and public trial,"[15] the requirement of impartiality being thus expressly provided for. There is all the more reason then for a reaffirmance of *People v. Apduhan*. [16]

- A word more about the novel twist in the decision now under automatic review where, after announcing the death sentence, a paragraph is added by the lower court as to the prosecution subsequently being required to present proof of the guilt of the accused. There is here something unusual, but far from palliating the gravity of the error incurred, it merely exacerbated it. For it is a truism in the law, expressed so accurately by Daniel Webster, that by due process is meant one "which hears before it condemns, proceeds upon inquiry, and renders judgment only after trial." Here, the lower court opened the dispositive portion of its decision with this categorical declaration: "[Wherefore], in view of the voluntary and spontaneous confession [of] guilt made by the accused Regino Bacong, the court finds him guilty beyond reasonable doubt, of the crime of Murder pursuant to Article 248 of the Revised Penal Code, as charged in the Information, and hereby sentences him to suffer the penalty of [death]; to indemnify the heirs of the victim [in] the amount of P12,000.00; to pay P10,000.00 as moral damages and another P10,000.00 as exemplary damages; and to pay the costs." [17] Then came this penultimate paragraph: "In consonance with the doctrine laid down by the Supreme Court in the case of *People versus Epifanio Flores*, the Special Prosecutor is hereby ordered to present evidence to determine the degree of culpability of the accused." [18] Aptly, the Solicitor General was moved to declare: "This is anomalous, to say the least; it is like, in a manner of speaking, putting the cart before the horse." [19] To phrase it differently, it did render the due process requirement nugatory, for instead of a fair and impartial trial, there was an idle form, a useless ceremony.

- The second error assigned as to the lower court having rendered a void judgment or sentence need not be discussed at all in the light of the above.

WHEREFORE, the decision of the lower court of August 19, 1972 is reversed and set aside, and the case is remanded to it for proceedings strictly in accordance with the Constitution and the Rules of Court, as interpreted time and time again by this Tribunal.

Makalintal, C.J., Zaldivar, Ruiz Castro, Barredo, Makasiar, Antonio, Esguerra, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

Teehankee, J., did not take part.

[1] L-26868, July 29, 1971, 40 SCRA 90.

[2] According to Article III, Section 1, par. 17 of the 1935 Constitution: "In all criminal prosecutions, the accused shall be presumed to be innocent until the contrary is proved * * *." This provision is reproduced in Article IV, Sec. 19 of the Revised Constitution.

[3] L-33028, June 30, 1972, 45 SCRA 614.

[4] According to Article III, Sec. 1, par. 15 of the 1935 Constitution: "No person shall be held to answer for a criminal offense without due process of law." Such a right similarly worded is provided for in Article IV, Sec. 17 of the Revised Constitution.

[5] Brief for Accused-Appellant, 5-7.

[6] Manifestation and Motion in Lieu of Appellee's Brief, pars. 3-5. Solicitor General Estelito P. Mendoza was assisted by Assistant Solicitor General Hector C. Fule and Solicitor Francisco J. Bautista.

[7] Ibid, par. 6.

[8] L-19491, August 31, 1968, 24 SCRA 798, Justice Castro spoke for the Court.

[9] 31 Phil. 91.

[10] L-29644, July 23, 1973.

[11] The decisions referred to started with *People v. Solacito*, L-29209, August 25, 1969, 29 SCRA 61 and ended with *People v. Alamada*, L-34594, July 15, 1973.

[12] L-32332, August 15, 1973.

[13] L-33267, September 27, 1973.

[14] L-35792, November 29, 1973.

[15] Article IV, Section 19 of the Revised Constitution reads in full: "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustified."

[16] L-19491, August 31, 1968, 24 SCRA 798.

[17] Appendix to Brief for Accused-Appellant, 19.

[18] Ibid, 20.

[19] Manifestation and Motion in Lieu of Appellee's Brief, par. 6.

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