

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
PRIMITIVO ALA Y DURAN, ET AL., DEFENDANTS. PRIMITIVO ALA Y
DURAN, DEFENDANT AND APPELLANT.**

G.R. No. L-15633. August 31, 1960

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PER CURIAM:

Defendant Primitivo Ala is accused, together with Nicolas Mojica, of murder committed, according to the information, as follows:

"That on or about the 24th day of March, 1959, in the New Bilibid Prison, municipality of Muntinlupa, province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring and confederating together and mutually helping one another, armed with deadly weapons to wit, sharp-pointed instruments, with intent to kill with evident premeditation and treachery, did then and there, wilfully, unlawfully and feloniously stab one Ruperto Artus y Garcia on the different parts of his body, thereby inflicting several stab-wounds on the body of said Ruperto Artus y Garcia which caused his death instantaneously.

"That the accused are quasi-recidivist having committed the above-mentioned felony while serving sentence after having been convicted of final judgment.

"Contrary to law."

Upon arraignment, Ala pleaded guilty to the charge, whereas Mojica entered a plea of not guilty. Thereupon, the Court of First Instance of Rizal rendered judgment sentencing Ala to the extreme penalty, to indemnify the heirs of the deceased Ruperto Artus in the sum of P6,000, and to pay the costs. Then, the court proceeded with the trial as regards Mojica. The case is now before us en consulta, insofar as Ala is concerned, owing to the nature of the penalty meted out against him.

Counsel de oficio for Ala, namely, Atty. Erlinda Arce Ignacio Espiritu, has submitted a well written brief. She candidly states therein that, owing to the absence of evidence in the records of this case, due to Ala's plea of guilty and to the fact that the records of the proceedings in the lower court had not been transcribed prior to the filing of said brief, apart from the circumstances that the case against Mojica was still pending determination in said court, she exerted efforts to ascertain Ala's participation in the commission of the crime charged, and that, on the basis of the information thus furnished her, by Ala and Mojica, which admittedly is hearsay evidence, the veracity of which she cannot assure, she doubts whether Ala had sufficient knowledge of the meaning and consequences of his plea of guilty, when he entered the same, and whether he perpetrated said crime. Hence, she prayed that the records be remanded to the lower court for the reception of evidence and/or a new trial. The brief filed on behalf of the prosecution, by the Office of the Solicitor General, has, likewise, a similar conclusion and recommendation, predicated upon analogous considerations.

Fortunately, however, the transcript of the proceedings when Ala entered his plea of guilty and was sentenced by the lower court is now attached to the record. Moreover, after due trial, Ala's co-defendant Nicolas Mojica was,

likewise, convicted by the lower court and sentenced to the same penalty meted out to Ala, for which reason the decision against Mojica, dated June 6, 1960, is now before us, pending review en consulta. We are, therefore, in a better position than the prosecution and the defense were at the time of the submission of their respective briefs, to ascertain whether or not Ala was sufficiently posted on the meaning and consequences of his plea of guilty.

Said transcript reveals that upon arraignment, counsel for Ala stated, in open court, that after advising him of the contents of the information, Ala "manifested his desire to plead guilty" to the charge. Counsel further said that he explained to Ala the consequences of such plea and that this notwithstanding, Ala expressed his determination "to enter said plea, "as he really committed the acts alleged in the information", and that Mojica would plead "not guilty". Thereupon, the court inquired whether the accused were ready to plead. Their counsel having answered in the affirmative, arraignment took place, the court interpreter reading the information and translating its contents to the accused. Then Ala pleaded guilty to the charge, whereas Mojica entered a plea of not guilty. Asked by the court: "Have you understood the information as read and translated to you by the Court Interpreter?" Ala answered affirmatively. The court further asked: "And in pleading guilty are you doing so freely and voluntarily, without having been coerced, intimidated, or promised any reward or immunity by any person?" Ala gave the same answer. Still the court inquired: "Are you aware of the fact that in pleading guilty you are liable to be sentenced in accordance with the provisions of the law governing this case?" Ala's reply was: "Yes, Your Honor". Forthwith, the lower court rendered the decision which is now before us en consulta. To our mind, the foregoing facts satisfactorily indicate that Ala had adequate knowledge of the nature of the charge against him, of the connotations of his plea and of the consequences thereof.

This view is bolstered up by the decision of conviction, rendered by the lower court, against his co-defendant Nicolas Mojica. Said decision discloses that Gabriel Buclatin, one of the leaders of the "OXO Gang" was killed by several members of the "Sigue-Sigue Gang" inside the New Bilibid Prison at Muntinlupa, Rizal, on March 24, 1954, at about 4:15 p.m. Upon being apprised of this event, Ala and Mojica, who are members of the "OXO Gang", decided to kill their co-prisoner Ruperto Artus, who seemingly belong to the "Sigue-Sigue Gang", in order to avenge the death of Buclatin. So, that evening, at about 6:00 p.m., while Artus was standing inside Cell No. 1 of Dormitory No. 3-C, to which Ala and Mojica belong, the latter stabbed him several times with a "flat-pointed instrument". Not to be outdone, Ala likewise, stabbed Artus with an improvised weapon, looking like an ice pick. Altogether, Artus, who died that same evening, sustained thirty-two (32) wounds. According to the prison doctor, the nature of the same and the effects thereof were:

"External Findings:

Chest:

- One (1) Punctured wound, at level of 5th intercostal space along mid sternal line.
- One (1) Punctured wound, at level of 6th intercostal space along margin of sternum, left.
- One (1) Punctured wound, at level of 7th intercostal space along para-sternal line, left.
- Three (3) Punctured wounds, at level of 6th intercostal space along mid sternal line, left.
- One (1) Punctured wound, at level of 5th intercostal space mid clavicular line left.
- One (1) Punctured wound, at level of 5th intercostal space one inch lateral and clavicular line left.
- One (1) Punctured wound, at 7th intercostal space along para-sternal line, right.
- One (1) Punctured wound, at 8th intercostal space para-sternal line, right.

- One (1) Punctured wound, at 8th intercostal space along margin of sternum, right.
- One (1) Punctured wound, at 8th intercostal space 1 cm. lateral to mid sternal line, right.

Abdomen:

- Two (2) Punctured wounds, at epigastric region.
- Three (3) Punctured wounds, 1½ inches above umbilicus, along linea alba.
- One (1) Punctured wound, 1 inch below 12th rib, along semilunar line, left.
- Three (3) Punctured wounds, 1 inch below 12 rib, along mid inguinal line, left.
- Eight (8) Punctured wounds, at lumbar region, left.
- One (1) Punctured wound, at level of umbilicus, along mid inguinal line right.
- One (1) Punctured wound, 1 inch above umbilicus along mid inguinal line left.
- One (1) Punctured wound, ½ inch above umbilicus along pararectus line, left.

Internal Findings:

Lungs:

Left—Four (4) Punctured wounds, penetrating thru & thru.

Right—Two (2) Punctured wounds, penetrating thru & thru.

Heart:

Left ventricle—Two (2) Punctured wounds, penetrating thro & thru.

Cause of Death:

SHOCK AND PASSIVE INTERNAL HEMORRHAGE SECONDARY TO MULTIPLE FATAL PUNCTURED WOUNDS."

Soon after the occurrence, Mojica, with blood stained clothing, surrendered to Jose Magkalas, the prison guard, on duty in Dormitory No. 3, stating that he had killed Artus with said "flat-pointed" weapon, which he delivered to Magkalas. Mojica confirmed the foregoing facts in a statement made by him, that evening, at about 8:10 p.m., before Inspector Melito I. Geronimo, of said penal institution, which statement was subsequently sworn to by Mojica before the Acting Assistant Director thereof.

Viewed in the light of this background, it is not difficult to understand why Ala pleaded guilty to the crime charged in the information above quoted. The circumstances obtaining in this case are such as to render it almost impossible to prevent the prosecution from establishing the facts narrated above. Considering that Ala was, at the time of the occurrence, serving a sentence imposed upon him by final judgment, he must have known that the only retribution indicated by law for his participation in the commission of the crime charged is the extreme penalty (Articles 160 and 248, Revised Penal Code). His only hope for survival was an appeal for mercy, and a plea of guilty could, perhaps, clear the way therefor. Indeed, from a legal viewpoint, he had nothing to lose by such plea, considering the means available to the prosecution to establish the allegations of the information. Upon the other hand, said plea might give him a chance, no matter how slim, to impress the Court with a seeming feeling of repentance. In short, it offered the possibility, however remote, of inducing the court to entertain doubts on the advisability of the death sentence and open the door to the imposition of the penalty next lower in degree.

In short, we are satisfied that defendant Primitivo Ala was sufficiently aware of the nature of the charge against him, of the import of his plea of guilty and of its possible consequences, and that he thus assumed a calculated risk.

Wherefore, the decision of the lower court is hereby affirmed, with costs. It is so ordered.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, and Gutierrez David JJ., concur.

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