

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. HERBITO LACSON, ACCUSED AND APPELLANT.

G.R. NO. L-33060. February 25, 1974

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Under automatic review is the death sentence imposed on the accused Herbito Lacson by the Circuit Criminal Court of the 10th Judicial District at Masbate, Masbate upon his plea of guilty to a charge for murder.

As urged by counsel de oficio Leoncio M. Chiuco and recommended by the Solicitor General, the death sentence is set aside and the case is remanded to the court a quo for arraignment anew and for further proceedings in accordance with law, since an intelligent review of the death penalty and of whether the accused did fully understand the nature of the charge and the meaning and consequences of his plea is impossible, as there exists no record whatsoever of the arraignment and of his entering his guilty plea nor of the taking of any testimony after the plea.

The record simply shows that the information for murder for the killing on February 7, 1970 of Atty. Jose L. Almario with a dagger as filed against the accused, Lorenzo Mantal, Anacito de la Costa and two Does is dated March 4, 1970 and that there is a notice of arraignment dated March 5, 1970 for March 6, 1970.

No minutes (except a certificate of arraignment) were prepared to show how and that in fact the arraignment was carried out on March 6, 1970 and only the two-page partial judgment dated March 6, 1970 imposing the death penalty on the accused Herbito Lacson informs us that when the "case was called for arraignment on March 6, 1970 the accused Herbito Lacson alias 'Herbit' assisted by two counsels, pleaded guilty to the information," while his two co-accused pleaded not guilty and their trial was set for April 20-24, 1970 and everyday thereafter until termination.

The said partial judgment was promulgated and read to the accused on March 10, 1970, whereby the lower court imposed the death sentence and rendered judgment as follows:

"As regards the person of the accused Herbito Lacson alias 'Herbit', the Court finds the said accused 'GUILTY' as charged beyond reasonable doubt in the said information wherein the following aggravating circumstances appear, namely: treachery, taking advantage of nighttime and the crime was committed in consideration of a price and reward and, considering that only one of the aforementioned aggravating circumstances alleged in the information is setoff by his plea of guilty, it is the clear duty of the Court to sentence said accused as it hereby sentences him to suffer the penalty of DEATH BY ELECTROCUTION according to the provisions of law; to indemnify the heirs of the deceased Atty. Jose L. Almario, in the sum of P12,000.00; to pay moral damages in the amount of P25,000.00; and to pay 1/3 of the costs."

The only stenographic record that exists was that taken during the promulgation of the death sentence on March 10, 1970, as shown by the seven-page transcript thereof, wherein the lower court denied the verbal motion of counsel-de-oficio Regino Tambago for deferment of the promulgation of the partial judgment against the accused

until after the termination of the trial of his two co-accused, after which the clerk of court read the judgment. The accused was on the same date ordered committed to the National Penitentiary at Muntinglupa, Rizal.

During the completion stage of the stenographic records for purposes of this automatic review, the two stenographers of the lower court who were required to complete the records under pain of disciplinary action certified "that in view of the fact that accused Herbito Lacson pleaded guilty and was sentenced to death by electrocution by our court, there was no proceedings (sic) with regards to accused Herbito Lacson, hence there are no transcripts of stenographic notes." [1]

Under the circumstances, the Court finds well taken counsel de officio's lone assignment of error that nothing appears in the record nor in the lower court's judgment that it duly informed the accused of the grave nature and consequence of his plea as well as the Solicitor General's manifestation in lieu of brief dated February 1, 1974 that in the absence of a record of the arraignment proceedings, it is not possible to "determine whether the accused really and truly comprehended the meaning, full significance and consequences of his plea and that the same was voluntarily and intelligently entered or given by the accused," citing *People vs. Flores* [2] where the record likewise did not show that any minutes were taken of the arraignment proceedings.

The Solicitor General compares the fate of the accused at bar who pleaded guilty and was meted the death penalty after the manifestly inordinate haste with which he was charged, arraigned and convicted (in a total of six days from the days the information was filed on March 4, 1970 to arraignment on March 6, 1970 to promulgation of sentence on March 10, 1970) as against his two co-accused who stood trial, thus; "Incidentally, appellant's co-accused, Lorenzo Mantal and Anacito de la Costa who did not enter a plea of guilty but entered trial were subsequently convicted but sentenced to a lighter penalty. Accused Lorenzo Mantal was sentenced to life imprisonment only (p. 166 Rec) while the accused Anacito de la Costa was sentenced to one (1) year imprisonment as an accessory in the crime of murder (p. 167 Rec) where they were all charged with conspiracy." [2-a]

In the Court's latest decision of *People vs. Saligan*, [3] reaffirming the fundamental requirement that trial judges are "duty bound to be extra solicitous" in the admission of pleas of guilty to capital offenses, the Court thru Mr. Justice Castro enjoined that "It should always be remembered that a judicial confession of guilt embraces all the material facts alleged in the information, including all the aggravating circumstances listed therein. Any mistakes or misunderstanding on the part of an accused, especially in capital offenses, as to the full meaning of his plea may thus prove irreversibly fatal to him." [4] The Court therein set aside the death sentence and ordered a new arraignment, holding that "the barrenness of the record cannot give rise to the presumption that the trial court had accepted the defendant's plea of guilty in accordance with law. For x x x a judgment meting out the penalty of death is valid only if the record is susceptible of a fair and reasonable examination by this Court." [5]

In a long line of cases from *U.S. vs. Rota* [6] in 1907 to the restatement of the doctrine in *People vs. Apduhan* [7] and its reiteration in twenty-one cases thereafter down to *People vs. Alamada* [8] as traced by Mr. Justice Fernando in *People vs. Andaya* [9] the Court has always stressed its constant concern in due observance of the fundamental requirements of fairness and due process that the most meticulous care be exercised by the trial court before acceptance of an accused's plea of guilty in a capital case. Hence, the jurisprudential rule that in capital offenses the taking of testimony, notwithstanding the plea of guilty, is the proper and prudent course to follow to establish the guilt and precise degree of culpability of the accused and "not only to satisfy the trial judge but to aid the Supreme Court in determining whether accused really and truly understood and comprehended the meaning, full significance and consequences of his plea." [10]

ACCORDINGLY, the death sentence under review is set aside and the case is remanded to the court a quo for a

new arraignment of the accused with the assistance of counsel and with the precautions in accordance with law as indicated in the Court's opinion.

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

[2] 40 SCRA 230 (July 30, 1971), per now C.J. Makalintal.

[2-a] Only Lorenzo Mantal appealed his conviction to this Court, but withdrew the same on February 2, 1972; Res. of Feb. 18, 1972, Rollo, p. 113.[3] L-35792, prom. Nov. 29, 1973.[4] Citing *People vs. Busa*, 51 SCRA 798 (June 25, 1973), emphasis supplied.

[5] Citing *People vs. Duque*, L-33267-A, Sept. 27, 1973.

[6] 9 Phil. 426.

[7] 24 SCRA 798 (Aug. 30, 1968).

[8] L-34594, July 13, 1973.

[9] L-29644, July 25, 1973.[10] *People vs. Estebia*, 40 SCRA 9 (July 29, 1971).

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