

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICENTE DEL ROSARIO, DEFENDANT-APPELLANT.

G.R. No. L-33270. November 28, 1975

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

Based on a supposed "plea of guilty" to the crime of "robbery with homicide," defendant, Vicente del Rosario, was sentenced to suffer the penalty of DEATH by the Circuit Criminal Court of the Province of Bulacan then presided by Hon. Abelardo M. Dayrit. The case was elevated to this Court on automatic review, and We appointed Atty. Benjamin Relova now Judge of the Court of First Instance, Branch VI, Province of Batangas, as counsel de oficio to assist the accused.

The records show that on November 13, 1970, appellant Vicente del Rosario was charged with "robbery with homicide" in Criminal Case No. CCC-V-317 (B-96-70) of the Circuit Criminal Court, 5th Judicial District of Malolos, Bulacan under the following Information:

"That on or about the 8th day of May, 1970, in the municipality of San Ildefonso, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Vicente del Rosario with one John Doe who is still at large, conspiring and confederating together and helping each other, with intent to kill and to gain, did then and there wilfully, unlawfully and feloniously, enter the house of one Alberto de Belen, and once inside thereat, take, rob and carry away with them one firearm, Shot-gun, Remington with Serial No. 1593175, caliber .16, valued at P750.00, belonging to the said Alberto de Belen, to the damage and prejudice of the latter in the said sum of P750.00; and accused, pursuant to their conspiracy, during the commission of the robbery and on such occasion thereof and for the purpose of enabling them to take, steal and carry away with them the said firearm, did then and there wilfully, unlawfully and feloniously attack and assault and shoot with the aforesaid firearm they have taken said Alberto de Belen, inflicting upon said Alberto de Belen several wounds on the different parts of his body which directly resulted to his death.

"That in the commission of this crime, the aggravating circumstance of taking advantage of superior strength and that the crime was committed in uninhabited place were present." (p. 31, CFI original record)

On January 12, 1971, the case was set for arraignment but the same was postponed (p. 36, *ibid.*). On January 19, 1971, the case was again called for arraignment. The 6-page transcript of the stenographic notes taken on January 19 reveals the following proceedings:

"FISCAL:

"Your Honor please, the arraignment of this accused was delayed because there was that request from this representation to go over with the records and to confer with the witnesses to be able to determine whether we can sustain one of the aggravating circumstances alleged in the information, Your Honor, and I have conferred with them and if Your Honor please, we have strong evidence to sustain that aggravating circumstances, Your Honor.

"The crime has been committed in an uninhabited place, Your Honor, and that there was superior strength here on the part of the accused. It appears from the records, Your Honor, that this crime has been committed by not only one accused, Your Honor, but there were two of them. There was use of firearm, Your Honor, and that the victim here was killed in his hut in the field, Your Honor. And it is the firearm of the victim that was used by the accused in killing the victim, Your Honor.

ATTY. EDUARDO VILLAFUERTE:

"May I enter my appearance Your Honor, in this case under the control and supervision of the State Prosecutor.

COURT:

"Atty. Mateo Nonato is appointed counsel de oficio for the said accused. For your information, Compañero, during the first hearing, the counsel de oficio was trying to find out from the Fiscal if the aggravating circumstances mentioned in the information to be waived by the prosecution, so that the accused, who intended from the beginning to enter a plea of guilty, he might be given the minimum of medium penalty imposable for this crime of Robbery with Homicide. But the Fiscal, as per the manifestation this morning told the Court that the aggravating circumstances here mentioned in the information could not be waived because there are strong evidence that this aggravating circumstances here present in the commission of the offense, so that he fears that he will be recreant to his duties if he submits the absence of this aggravating circumstances. Under such vicissitudes, the Court is of the opinion that there is no other alternative for the prosecution except to proceed presenting evidence of this case and the defense be provided with a counsel de oficio, so much so that Atty. Mateo Nonato is appointed counsel de oficio for the said accused for this day.

ATTY. MATEO NONATO:

"May I confer with the accused, Your Honor?

COURT:

"Yes, You may do.

ATTY. NONATO:

"Your Honor, after I have conferred with the accused, he said that he wants to enter a plea of guilty. He agreed to enter a plea of guilty imputed upon him.

FISCAL:

"Your honor, I heard the word 'agreed'. Was there somebody who proposed to him to plead guilty, Your Honor?

COURT:

"Precisely, the Fiscal is objecting to the employment of the word agreed because it implies that there are two (2) parties involved in this case in which there was a proposition, then there was somebody to accept that proposition.

FISCAL:

"Specially in this case, if Your Honor please, which is a capital offense, Your Honor. I think that the word 'agreed' here would not appear nice in the records.

ATTY. NONATO:

"For the purpose of clarifying this term, Your Honor, this representation has explained to him the import of his

plea of guilty, and after understanding the whole matter, we used the word 'agreed'.

FISCAL:

"With that explanation, Your Honor, I think the record is now clear as to what is meant by the word 'agreed'.

COURT: (to the accused)

"Let it be clear into the records of this case that this Court appointed counsel de oficio in your behalf, in order to properly safeguard your interest as an accused in a capital offense, while this Court is fully aware of your desire to enter a plea of guilty from the beginning. The Court also understood that you were asking for a penalty much lower than that of imposable by law, so much so, that you, in the first time when this case was set for arraignment and trial, the District State Prosecutor, as well as the appointed counsel de oficio that time agreed to conduct a re-examination of the records, so as to find out the possibility of obviating or waiving on the part of the prosecution what are the aggravating circumstances alleged in the information, so that your plea of guilty will necessarily offset the remaining aggravating circumstance, so that there will be justification for this Court to impose a penalty in the medium period. But because, the arraignment and trial during that time was postponed for a further consideration of that issue, the Court this morning when it found you to be without the assistance of counsel, appointed Atty. Nonato, a lawyer who from his looks and appearance must have been mellowed by experience in the law profession, and this lawyer readily asked after his appointment that he be given time within which to confer with you, and the Court allowed him a wide latitude of freedom to confer with you and to find from you your desire in connection with the arraignment and trial scheduled for this morning. After a reasonable period of time, said counsel intimated to the Court, that he had explained to you repeatedly the nature and cause of the accusation against you and after being assured that you understood the contents of the same, you confided to him your desire to enter a plea of guilty to the offense charged in the information. The Court wants to find out from you if you confirmed the correctness and truthfulness of the manifestation of counsel because the crime charged in the information including the allegation of the generic aggravating circumstances makes you charged a capital offense and consequently invokes or causes for a capital punishment. Will you state now for the records whether the said manifestation of the lawyer is true and correct?

ACCUSED:

"Yes, Your Honor.

COURT:

"In view of the lengthy dialogue between the Court and the accused, it is the well-considered opinion of the Court, that the manifestation of Atty. Nonato, the appointed counsel de oficio are true and correct. Accordingly, much to the regret of this Court, it is now left without any alternative in view of the plea of guilty to the offense charged to consider the penalty imposable by law.

"FOR ALL THE FOREGOING CONSIDERATIONS, this Court, in view of the plea of guilty of the accused to the offense charged, a crime defined and penalized in paragraph 1 of Article 294 of the Revised Penal Code, with the aggravating circumstances of taking advantage of superior strength, and that the crime is committed in an uninhabited place, one of which was understandably offset by the voluntary plea of guilty and therefore, there is only one aggravating circumstance in attendance, finds him guilty beyond the reasonable doubt of the said offense, and in pursuance of Articles 13, 14, and 64 of the Revised Penal Code, hereby sentences him to DEATH and to indemnify the heirs of the offended party in the amount of P12,000.00; likewise to pay them the amount of P20,000.00 by way of moral and exemplary damages; with the other accessories of the law and to pay the costs.

"SO ORDERED." (Folder of Transcript)

Undoubtedly, there is nothing in the above-quoted transcript of the proceedings to show that after the accused had answered "Yes, Your Honor" to the lengthy discourse of the trial judge, the latter caused the Information to be read to the accused and that the latter in turn entered his plea of guilty to the charge. This to Us is a shocking manifestation of an utter disregard of the requirements of the law on the right of an accused to be properly informed of the charge against him.

Section 1, Rule 116 of the Rules of Court, expressly provides for the procedure to be taken in the arraignment of an accused, thus:

"Section 1. Arraignment — How made. — The defendant must be arraigned before the court in which the complaint or information has been filed unless the cause shall have been transferred elsewhere for trial. The arraignment must be made by the judge or clerk, and shall consist in reading the complaint or information to the defendant and delivering to him a copy thereof, including a list of witnesses, and asking him whether he pleads guilty or not guilty as charged. The prosecution may, however, call at the trial witnesses other than those named in the complaint or information." (emphasis Ours)

Contrary to the above, all that was done by the trial judge was to inquire from the accused if the statement of his counsel de oficio that he (the accused) was desirous of pleading guilty was true and correct, and, upon said accused answering "Yes, Your Honor", without further ceremony, to sentence the accused to death.

Where is the arraignment — where is the plea of guilty which can be the basis of a judgment?

But even if We were to consider the answer "Yes, Your Honor" as a plea of guilty, still the plea suffers from fatal defects which warrant the setting aside of the death penalty imposed by reason thereof. Both the counsel de oficio and the Solicitor General agree on this point. Thus, counsel states in his brief:[1]

"x x x if the hearing held on January 19, 1971 was the basis of the decision of January 10, 1971, transcript of the stenographic notes of January 19, 1971 does not show that the accused had been arraigned in accordance with Section 5 Rule 116 of the Rules of Court which provides:

'Whenever an attorney de oficio is employed or assigned by the court to defend an accused either at the arraignment or at the trial, he shall be given reasonable time to consult with the accused and prepare his defense before proceeding further in the case which shall not be less than two (2) hours in case of arraignment, and two days in case of trial.' (Italization supplied).

"The record of the hearing on January 19, 1971, does not show that the lawyer de oficio had full two (2) hours to prepare for the arraignment before the accused pleaded guilty. Although, under said Section 5, Rule 116, the lower court may, for good cause, shorten or extend the time, the record does not show that the lower court had shortened the period of the arraignment for a good cause. All that the record shows is that the accused was arraigned after the lawyer de oficio was given a reasonable time to consult with the accused. This does not necessarily mean that the minimum period of two hours had been exhausted before the accused entered his plea of guilty. The life of the accused was at stake but the record does not show that before taking his life, the law was strictly complied with. In statutory construction, the law is strictly construed in favor of the accused.

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In this case, no evidence was taken by the trial court in support of the allegations in the information. The record does not show that when the accused made his plea of guilty, he was made aware of the aggravating circumstances of (1) taking advantage of superior strength and (2) that the crime was committed in an uninhabited place alleged in the information. On page 5 of the transcript of the hearing of January 19, 1971, the following appears:

'The court wants to find out from you if you confirmed the corrections and truthfulness of the manifestation of

counsel because the crime charged in the information including the allegation of the generic aggravating circumstances makes you charged of capital offense and consequently invokes or causes for a capital punishment.' (Italization supplied)

The words 'generic aggravating circumstance,' 'capital offense' and 'capital punishment' employed by the lower court are legal terminologies fit for lawyers and the courts. They are not for the accused who is an ordinary layman." (pp. 31-34, rollo)

Echoing substantially the same observations, the Solicitor General[2] in the People's brief remarks:

"The care which characterized the decision in the instant case is mirrored on the way the January 10, 1971 was promulgated. In the case at bar, the information dated November 6, 1970, was received in the lower court on November 13, 1970. Page 36 of the expediente shows that the accused was first arraigned on January 12, 1971 in the morning. The accused was then given the assistance of a counsel de oficio, in the person of Atty. Jesus Santos. The arraignment, however, was postponed in the afternoon, ostensibly to call witnesses for the prosecution. The records do not reveal what transpired in the afternoon of January 12, 1971. And then on January 19, 1971, the accused was once more brought to court, assigned a new counsel de oficio, pleaded guilty and accordingly sentenced. Considering the scanty records of the case, one cannot but be confused when confronted by the promulgation of the January 10, 1971 decision when the first recorded arraignment happened on January 12, 1971. It might be that the January 10, 1971 date was a clerical error and should instead be January 19, 1971. The case at bar, however, involves a capital offense where the life of a man precariously hangs on the balance. It cannot be overemphasized that the proceedings thereof must be crystal clear as to leave no speck of doubt that the accused was abundantly afforded all of his legal rights and privileges before he was imposed the capital punishment by the lower court. This requirement cannot be relaxed without dangerously courting the commission of errors that might affect the life, limb and liberty of an accused." (pp. 18-19, brief)

Indeed, in view of the grave consequences of a plea of guilt to a capital offense, this Court, in no less than a dozen decisions prior to the rendition of the judgment now under review, and reaffirmed in numerous subsequent decisions, has consistently set forth certain guidelines to be observed by trial courts, not only to forestall improvident pleas of guilty but also to determine the precise degree of culpability of the accused.[3]

First, where in the arraignment, the accused is represented by counsel de oficio (as in this case), it is incumbent upon the trial judge to accord such counsel the fullest opportunity not only to examine the records but also to acquire every relevant information on the matter. Counsel should be given ample time to know the facts of the case from the accused himself so that he may properly, intelligently and effectively represent the latter's interest. This is essential to give substance more than form, to the constitutional right of the accused to be heard by himself and counsel (*People vs. Simeon*, L-33730, September 28, 1972, 47 SCRA 129; *People vs. Martinez*, L-35353, April 30, 1973, 50 SCRA 509).

In the instant case, it is not evident from the record that this guideline was complied with. What only appears is that during the hearing, counsel sought permission to confer with the accused and the same was granted (T.s.n., p. 3). For what length of time and to what extent counsel conferred with the accused to satisfy himself of the latter's guilt is not evident. Neither is there any indication of how thoroughly counsel apprised the accused of the charges against him and the possible repercussions of a plea of guilty.

Second, in the event of a plea of guilty, trial courts are "enjoined from accepting with alacrity such plea." This the Court said in *People vs. Apduhan, Jr.*, supra. Time and again judges have been admonished to be extra solicitous in ascertaining that the accused fully understands the nature and meaning of the charges against him and the effects of a plea of guilty thereto. (*People vs. Solacito*, supra; *People vs. Serafica*, supra; *People vs. Englatera*,

supra; People vs. Espejo, L-27708, December 19, 1970, 36 SCRA 400; People vs. Aguilar, L-30932, January 29, 1971, 37 SCRA 115; People vs. Flores, L-32692, July 30, 1971, 37 SCRA 230; People vs. Ybañez, L-35879, December 20, 1974, 61 SCRA 468; People vs. Strong, L-38626, March 14, 1975, 63 SCRA 133)

In the case at bar, there has again been a dereliction of this imperative duty. As shown in the aforequoted stenographic transcript, the trial judge propounded only one question to the accused. As counsel de oficio points out, in that lone question, such technical terms as "generic aggravating circumstances," "capital offense," and "capital punishment" were employed by the trial judge, and there is no showing that the accused was possessed of such a degree of instruction or intellectual discernment as to have comprehended the import of those terms and their consequences.

Third, in capital offenses, despite the entry of a plea of guilty, the trial court in exercising its discretion should take or require the presentation of evidence (People vs. Bulalake, supra; People vs. Arpa, supra; People vs. Solacito, supra; People vs. Daeng, L-34091, January 30, 1973, 49 SCRA 221; People vs. Ricalde, L-34673, 49 SCRA 228; People vs. Martinez, L-35353, April 30, 1973, 50 SCRA 509; People vs. Busa, L-32047, June 25, 1973, 51 SCRA 317; People vs. Villafuerte, L-32036, July 31, 1973, 52 SCRA 204; People vs. Alamada, L-34594-95, July 13, 1973; 52 SCRA 103; People vs. Andaya, L-29644, July 25, 1973, 52 SCRA 137; People vs. Pohong, L-32332, August 15, 1973, 52 SCRA 287; People vs. Duque, L-33267, September 27, 1973, 53 SCRA 132; People vs. Saligan, L-35792, November 29, 1973, 54 SCRA 190). We cannot overstress the necessity for such a course of action aimed at nothing else than that the trial judge can satisfy his conscience as to the true guilt of the accused, and that the precise degree of his culpability can be established or accurately determined (People vs. Busa, supra). Too, it serves to dispel all doubts that the accused misunderstood the nature and effect of his plea (People vs. Daeng, supra). Not the least, it aids this Court in fulfilling its duty of review by providing it with the necessary basis for determining the legality of his conviction and the correctness of the penalty imposed. And as We have intimated in People vs. Busa, People vs. Duque and People vs. Saligan, supra, the proceedings in capital offenses taken in the court a quo in the matter of arraignment and plea as well as the taking of evidence must be recorded as completely as possible, to afford a fair and intelligent documentation of the proceedings.

Finally, in the latest case of People vs. Mengote, et al., L-30343, July 25, 1975, this Court again emphasized the necessity for trial courts to ascertain "beyond the pale of doubt whether the accused fully realized the consequences of their plea and the imminence of a death sentence arising therefrom before accepting their plea and imposing upon them the supreme penalty of death." [4]

Without having taken any of these imposed safeguards, in law and in foro conscientiae, the trial judge Abelardo Dayrit should not have sentenced the accused Vicente del Rosario to the extreme penalty of death; for having done so, he merits a stern reprimand from the Court.

This case serves as a proper vehicle to warn trial judges that We expect strict compliance with the course of action set forth in clear and unmistakable terms, here and in the numerous decisions of this Court, and that a departure therefrom will warrant proper administrative action against them for gross ignorance of the law.

PREMISES CONSIDERED, the decision of the lower court is hereby set aside, and the case remanded thereto for the arraignment of the accused in conformity with the guidelines set forth in existing jurisprudence and for further proceedings in conformity with law.

SO ORDERED.

Esguerra, Aquino, Concepcion Jr., and Martin, JJ., concur.

Makalintal, C.J., concurs in the result.

Antonio, J., took no part.[*]

[*] Justice Felix Q. Antonio is not taking part, he being the Solicitor General at the time the brief of the People was filed.

[1] The original record of the case shows that the hearing was actually held on January 19, 1971, and therefore the date "January 10, 1971," of the decision is a typographical error.

[2] Justice Felix Antonio of this Court was the Solicitor General at the time.

[3] U.S. vs. Talbanos, 1906, 6 Phil. 541; U.S. vs. Rota, et al., 1907, 9 Phil. 426; U.S. vs. Agcaoili, 1915, 31 Phil. 92; U.S. vs. Jamad, 1917, 37 Phil. 305; People vs. Sabilul, 1951, 89 Phil. 283; People vs. Acosta, et al., 1956; 98 Phil. 642; People vs. Bulalake, 1959, 106 Phil. 767; People vs. Apduhan, Jr., L-19491, August 30, 1968, 24 SCRA 798; People vs. Arpa, et al., L-26789, April 25, 1969, 27 SCRA 1037; People vs. Solacito, L-29209, August 25, 1969, 29 SCRA 61; People vs. Serafica, L-29092-93, August 28, 1969, 29 SCRA 123; People vs. Englatara, L-30820, July 31, 1970, 34 SCRA 245.

[4] Decision En Banc, Justice Martin, ponente.

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