

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ERNESTO DUQUE, ANDRES PINE, TOBIAS REBADAJO, JORGE LIM,
LUCAS DE JESUS, ORLANDO DELA FUENTE AND ELINO DE GUZMAN,
DEFENDANT...**

G.R. No. L-33267-A. September 27, 1973

Ponente: RUIZ CASTRO, J.

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RUIZ CASTRO, J.:

The seven (7) defendants Ernesto Duque, Andres Pine, Tobias Rebadajo, Jorge Lim, Lucas de Jesus, Orlando dela Fuente and Elino de Guzman were indicted, together with sixteen others, for multiple murder and frustrated multiple murder (criminal case 100-N) before the Court of First Instance of Davao del Norte. The information recites that on August 30, 1969, in the Panabo Sub-Colony, Davao Penal Colony, Municipality of Panabo, Province of Davao del Norte, the defendants, "with treachery and evident premeditation, armed with deadly weapons and with intent to kill, conspiring, confederating and mutually helping one another, did then and there wilfully, unlawfully and feloniously attack, assault and stab" forty-one (41) fellow inmates, causing the death of eight, and inflicting upon the remaining thirty-three wounds which would have been fatal but for timely medical intervention; and that the commission of the offenses was attended by the aggravating circumstance of recidivism in regard to Andres Pine, Tobias Rebadajo and nine other accused, and of use of superior strength in regard to the rest.

At their arraignment on August 4, 1970, all the seven defendants pleaded guilty. Fifteen other accused pleaded guilty to the lesser offenses of multiple homicide and serious physical injuries, while the one remaining accused, Benjamin Bungay, pleaded not guilty in a separate arraignment.[1]

On August 7, 1970 the trial court rendered judgment convicting the seven defendants and sentencing them to the penalty of death, to proportionately indemnify the heirs of each of their victims in the sum of P12,000 and to pay the costs. The case of the said defendants is now before this Court on automatic appeal.

The counsel de oficio appointed by this Court poses two errors for consideration and resolution: first, in accepting the pleas of guilty of the seven defendants, the trial court did not ascertain properly whether the former fully understood the meaning and consequences of their pleas; and, second, the trial court meted out the penalty of death without taking evidence independently of the affirmative pleas.

In his manifestation and motion, in lieu of appellee's brief, the Solicitor General, as counsel for the People of the Philippines, makes the following pointed observations: "That based on the scanty records of this case, undersigned counsel are inclined to agree with counsel de oficio's above contention, for the following reasons:

“(a)

During the investigation of this case in the municipal court whereat all the accused gave affidavits of confession, they were not represented by counsel, and when appellants Ernesto Duque, Andres Pine, Tobias

Rebadajo, Jorge Lim, Lucas de Jesus, Orlando dela Fuente and Elino de Guzman, together with the other accused in this case, signed the Motion to Waive Right to the Second Stage of the Preliminary Investigation dated April 4, 1970, "with a plea of guilty," again no counsel assisted them, and there is also no showing that said motion, which is in English was translated and explained to them in the dialect that they know. On the other hand, the motion bears the conformity of Vicente B. Afurong, Supervising Prison Guard and Investigator of the Davao Penal Colony;

“(b)

That the records also do not reveal what actually transpired during the trial of the case in the lower court on August 4, 1970, there being no minutes nor stenographic notes of said trial. Even the decision of the lower court merely makes the observation that the accused were assisted by counsel de oficio, but nothing is stated therein as to whether or not the accused were properly advised by said counsel or by the trial judge of the nature and consequences of the plea of guilty that they were willing to enter under the information charging them with multiple murder and multiple frustrated murder, offenses punishable by capital punishment;

“(c)

True it is that the decision of the lower court recites the supposed facts of the case. Said facts were, however, merely lifted from the sworn confessions of the accused which were attached to the original complaint filed with the municipal judge, but which confession were not even introduced as evidence at the trial nor were their due execution proved, and much less were the accused confronted with or asked whether or not they admit the contents of said confessions.”[2]

We have meticulously examined the record of this case and, as with the Solicitor General, found no details whatsoever of the proceedings, if any, had by the trial court at the arraignment of the seven defendants. The decision a quo states but sketchily that "... after the information was read to them, each voluntarily and spontaneously entered a plea of guilty." This latter statement, however, is no assurance at all that the seven defendants had been given to fully understand the nature and meaning of the charges against them. The qualifying and/or aggravating circumstances of treachery, evident premeditation, recidivism and use of superior strength alleged in the information are terms so technical that laymen, especially unschooled ones like the defendants, cannot be expected to apprehend their meaning without the requisite patient and competent explanation.[3] Of equal significance, the record does not inform us whether the seven defendants were made to appreciate properly the inevitable result of their affirmative pleas prior to their entering the same.

Obviously, the barrenness of the record cannot give rise to the presumption that the trial court had accepted the pleas of guilty in accordance with law. For, as we have held in *People vs. Busa*,[4] 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.

Further, in order to forestall the improvident entry of a plea of guilty, where grave crimes are charged, we have deemed the taking of testimony the prudent and proper course to follow, for the purpose of establishing not only the guilt but also the degree of culpability of the accused, notwithstanding the plea of guilty.[5] The taking of such testimony would serve to satisfy the trial court itself that the plea of guilty was not improvidently entered, as well as aid the Supreme Court in determining the legality of conviction and the correctness of the penalty imposed.

ACCORDINGLY, the judgment a quo is set aside, and this case (L-33267-A) is hereby remanded to the court of origin for a new arraignment of the seven defendants Ernesto Duque, Andres Pine, Tobias Rebadajo, Jorge Lim, Lucas de Jesus, Orlando dela Fuente and Elino de Guzman, in accordance with law and consistently with the

views herein expressed. Costs de oficio.

Makalintal, Acting C.J., Zaldivar, Fernando, Teehankee, Barredo, and Esguerra, JJ., concur.
Makasias and Antonio, JJ., took no part.

[1] Bungay was subsequently tried and found guilty of multiple murder and multiple frustrated murder in the separate decision of September 1, 1970 of the trial court, and was sentenced, among other things, to the penalty of death. Bungay's case has been elevated to this Court on automatic appeal, together with the case of the seven appellants herein, under the same docket number L-33267. By resolution of August 16, 1978, this Court noted and resolved thus:

"It appearing that two separate decisions were rendered by the Court of First Instance of Davao del Norte, 16th Judicial District, at Tagum, one dated August 7, 1970, finding accused Ernesto Duque, Andres Pine, Tobias Rebadajo, Jorge Lim, Lucas de Jesus, Orlando dela Fuente and Elino de Guzman guilty of the crime of multiple murder and multiple frustrated murder in view of their plea of guilty, and accused Benjamin Bungay who did not enter a plea of guilty, guilty beyond reasonable doubt also of the crime charged, after a full-blown trial; that counsel for the first seven accused aforementioned has already filed brief for said appellants, while counsel for appellant Bungay has not yet filed his brief; that the Solicitor General in a manifestation filed in lieu of appellee's brief stated that there is need to remand this case to the court a quo to determine whether said appellants thoroughly understood the precise nature and effect of their pleas of guilty to the capital offense charged, the Court Resolved: (a) LET the case of the seven accused in 'People vs. Ernesto Duque, et al.,' be entered under L-33267-A; and the case of 'People vs. Benjamin Bungay' under L-33267-B; (b) to CONSIDER only L-33267-A submitted for decision, it appearing that appellant Benjamin Bungay in L-33267-B has not yet filed his brief; and (c) to consider as [correspondingly] AMENDED the resolution of October 19, 1971."

[2] Appellee's Manifestation and Motion, pp. 7-9.

[3] People vs. Solacito, L-29209, August 25, 1969, 29 SCRA 61; People vs. Silvestre, L-33821, June 22, 1973; People vs. Alamada, L-34594-95, July 13, 1973.

[4] L-32047, June 25, 1973.

[5] U.S. vs. Talbanos, 6 Phil. 541; People vs. Bulalake, 106 Phil. 767; People vs. Pohong, L-32332, August 15, 1973; People vs. Villafuerte, L-32036, July 31, 1973.

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