

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BRAHIM ALAMADA ALIAS BRAHIM MINANDANG,
DEFENDANT-APPELLANT.**

G.R. Nos. L-34594-95. July 13, 1973

Ponente: CASTRO, J.

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CASTRO, J.:

The defendant-appellant Brahim Alamada alias Brahim Minandang was indicted, together with one Belog Zacalia, for the twin offenses of robbery with homicide and rape with homicide, docketed as criminal cases 25 and 26, respectively, of the Court of First Instance of Cotabato. In criminal case 25, the information reads:

"That on or about February 5, 1970, at Barrio Kabulakan, Municipality of Sultan Sa Barongis, Province of Cotabato, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with knives, conspiring and confederating together and mutually helping each other, did then and there wilfully, unlawfully and feloniously, by means of force, violence and intimidation, one of the accused, Belog Zacalia had carnal knowledge with the victim Lolita Bancal; while Brahim Alamada alias Brahim Minandang was guarding, and after consummating his carnal desire in pursuance of their conspiracy or on the occasion thereof and for the purpose of ensuring their unlawful acts, said Belog Zacalia, did then and there wilfully, unlawfully and feloniously, with the use of a knife and with intent to kill, attack and stab said victim, one Lolita Bancal, with said weapon inflicting upon her body multiple stab wounds, which directly caused her death."

In criminal case 26, the information recites:

"That on or about February 5, 1970, at Kabulakan, Municipality of Sultan Sa Barongis, Province of Cotabato, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with knives, conspiring, confederating together and mutually helping each other by means of violence and with intent of gain and without the consent of the owner thereof, steal, take away and robbed Mrs. Dominga Bancal of her cash in the amount of P1.50 and Lolita Bancal of her wrist watch valued at P60.00 to the damage and prejudice of the aforesaid victims and in pursuance of their conspiracy or on the occasion thereof and for the purpose of ensuring their unlawful acts, the said accused, did then and there wilfully, unlawfully and feloniously with treachery and evident premeditation and taking advantage of their superior strength and arms, with intent to kill, attack and stab one Mrs. Dominga Bancal, with said weapon, who, as a result thereof, sustained several stab wounds which caused her death."

Upon arraignment on June 15, 1970, the two accused pleaded not guilty. On August 26, 1970, however, the following proceedings took place:

"ATTY. SAMBOLAWAN:

The same appearance as counsel de oficio for the accused. Taking into consideration the gravity of these cases and considering further that this representation is also one of the counsels in a case now pending and that we are ready, we respectfully pray to this Honorable Court that since we have no time for this case and we have no

other de officio counsel to assist in this case, so may we request for the postponement of the trial of this case?

"COURT:

The accused here are detained prisoners. We will just hear this witness for the prosecution.

"ATTY. SAMBOLAWAN:

Before the prosecution presents its evidence and after conference with the accused in these two cases, one of the accused in the person of Brahim Alamada alias Brahim Minandang intimated to this representation that he is willing to enter a plea of guilty. We therefore request that a former plea of not guilty by said accused be withdrawn and in view thereof, an arraignment be made on the accused in these two cases and be allowed to substitute his plea of not guilty into a plea of guilty.

"COURT:

No objection?

"FISCAL MALCAMPO:

No objection, Your Honor.

"COURT:

ORDER

The accused, Brahim Alamada alias Brahim Minandang's previous plea of not guilty in Criminal Case No. 25 is held withdrawn as well as his former plea of not guilty in Criminal Case No. 26 is likewise withdrawn as prayed for by Counsel for the said accused.

Let, therefore, the accused be arraigned anew under the same information.

SO ORDERED.

(Mr. David Torsiende reads the information in Crim. Cases Nos. (70)-25 and (70)-26 to the accused, Brahim Minandang only translating the same into Maguindanao dialect known to the accused Brahim Alamada alias Brahim Minandang only. After the arraignment, the accused pleaded guilty thereof.)"

The counsel de officio below then asked that four mitigating circumstances be considered in favor of the defendant Alamada, namely, plea of guilty, voluntary surrender, minority of age, and the pertinent extenuating provisions of the Mindanao and Sulu Code. Alamada was allowed to testify for the purpose of proving the two mitigating circumstances of voluntary surrender and minority.

On September 29, 1971, judgment was rendered in each of the two cases, finding Alamada guilty. Only the mitigating circumstances of plea of guilty and membership in a non-Christian tribe were appreciated by the trial court in his favor. In criminal case 25, he was sentenced to suffer the penalty of death, to indemnify the heirs of the victim in the sum of P12,000, and to pay half the costs. In criminal case 26, the court pronounced a similar sentence.

These two cases are now with us on automatic appeal.

Counsel de officio appointed by this Court faults the proceedings had by the trial court in the admission of the plea of guilty of Alamada. It is pointed out that the mere reading and translation of the informations to the defendant were not enough to guard against the possibility of an improvident entry of the plea of guilty. It is argued that the trial court should have fully explained to the defendant the nature and gravity of the two offenses

charged in order to assure itself that he understood the meaning, significance and consequences of his affirmative plea.

The Solicitor General, as counsel for the People of the Philippines, joins the counsel de oficio in impugning the validity of Alamada's plea of guilty. The Solicitor General states that "in all cases, especially those involving capital offenses, the court should be sure that the defendant fully understands the nature of the charges preferred against him and the character of the punishment to be imposed before sentencing him."

We have carefully examined the records of the two cases at bar, and we are convinced, as with the counsel de oficio and the Solicitor General, that the trial court failed to observe that quantum of care which this Court has consistently prescribed for the valid admission of a plea of guilty by an accused, especially in capital cases.

First, the trial court did not at all explain to the defendant the nature of the charges against him, especially the allegations regarding conspiracy, treachery, evident premeditation and abuse of superior strength, which are terms so technical that the layman, especially an unschooled one like the accused, cannot possibly understand without proper elucidation.[1] Neither did the trial court inform the defendant of the gravity of the consequences of his plea of guilty. And, more significantly, the trial court neglected to ask him his reasons for withdrawing his former plea of not guilty and substituting in its place that of guilty. That the defendant was aided by counsel de oficio is of no moment, especially where such counsel wanted the hearing of the two criminal cases postponed due to their "gravity" (an admission that he was not ready to proceed), and expressed his preference to continue instead with the hearing of another case in which he was obviously a counsel de parte.

And, second, contrary to what has been so frequently suggested by this Court, the trial court did not receive evidence for the purpose of establishing the guilt and the precise degree of culpability of the defendant, notwithstanding his plea of guilty.[2] When the defendant was allowed to testify, he was asked only about his age and his educational attainment, and how he went about surrendering to the authorities.[3] He was not asked questions on any single aspect of the commission of the two crimes. And, worse, in the course of its inquiry as to the ability of Alamada to read and write, the trial court did not follow thru on its interrogation. Witness the following:

"Q.

(By the court) - Showing to you that signature in the affidavit supposedly made by you and written as Brahim Minandang, will you see that if you know whose signature is that? Can you recognize whose handwriting is that written there?

"A. I was not the one who wrote this, Sir.

"Q. But, do you know who put that there?

"A. I have not seen, Sir.

"Q. How about the writing on the side, do you know whose signature is that?

"A. I did not sign this sir.

"Q. Then, do you know who placed that writing there?

"A. I have not seen, Sir."

The fact that the defendant denied authorship of the inculpatory affidavit ascribed to him should have immediately alerted the trial court to the possibility that the accused might have admitted crimes which he did not commit or which are more serious than the ones he had actually committed. The court, however, allowed the opportunity to pass; the defendant was not at all asked whether he had indeed committed the acts alleged in the two informations. A greater degree of diligence and solicitude on the part of the court a quo would have spared everyone, including the members of this Court, the obvious and needless waste of valuable time, effort and expense.

ACCORDINGLY, the judgments appealed from are set aside, and these two cases are hereby remanded to the court a quo for a new arraignment, on each information, of the defendant Brahim Alamada alias Brahim Minandang, and for further proceedings in accordance with law and consistently with the views herein expressed. Costs de oficio.

Makalintal, (Acting C.J.,) Zaldivar, Fernando, Teehankee, Makasiar, and Esguerra, JJ., concur.
Barredo and Antonio, JJ., did not take part.

[1] People vs. Solacito, G.R. No. L-29209, August 25, 1969, 29 SCRA 61; People vs. Silvestre, G.R. No. L-33821, June 22, 1973.

[2] People vs. Daeng, G.R. No. L-34091, January 30, 1973, 49 SCRA 221, under footnote 2 thereof; People vs. Busa, G.R. No. L-32047, June 25, 1973.

[3] TSN, August 26, 1970, pp. 5-10.

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