

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. MORO SABILUL, DEFENDANT AND APPELLANT.

G. R. No. L-3765. June 21, 1951

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

Sabilul was charged with murder in the Court of First Instance of Zamboanga on the following information:

"That on or about the 14th day of September, 1949, and within the jurisdiction of this Honorable Court, viz., in the district of Lamitan, City of Basilan, Philippines, the above named accused, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously, assault and attack one Moro Lario by means of a 'pira' a Yakan bladed weapon, thereby inflicting upon the body of said Moro Lario multiple wounds which caused his instant death."

Upon arraignment, and with the assistance of counsel, Atty. Filoteo Dianela Jo, who was appointed counsel de oficio for him, Sabilul entered a plea of guilty. Without taking any evidence and merely on the basis of the statements and contentions made by the provincial fiscal and counsel de oficio, which, indeed were conflicting, Judge Pablo Villalobos, presiding over the trial court, forthwith dictated the following sentence in open court:

"SENTENCE

"The accused herein stands charged with the crime of 'Murder' committed according to the information filed by the City Attorney, as follows:

* * * * *

"Upon arraignment and assisted by his attorney-de-oficio, Filoteo Dianela Jo, the accused voluntarily entered the plea of guilty.

"The present case falls within the provision of article 248, subsection 1 of the Revised Penal Code which prescribes the penalty of RECLUSION TEMPORAL in its maximum period to death. However, there are three mitigating circumstances present, which are: (a) the accused has acted upon an impulse so powerful as naturally to have produced passion or obfuscation (b) voluntary surrender and (c) the plea of guilty, and the same are not offset by any aggravating circumstance. So, the penalty that should be imposed upon the accused is that one next lower in degree than the penalty above prescribed, in accordance with article 64, paragraph 5 of the same legal code. Taking into consideration further that the accused is a 'yakan' belonging to the Non-Christian Tribes and hopelessly ignorant, the provision of section 106 of the Administrative Code for the Department of Mindanao and Sulu should be made applicable under the circumstances of the case.

"IN VIEW THEREOF, the court finding the accused guilty by his own voluntary confession of the crime of 'Murder' as alleged in the above-quoted information, hereby sentences him to suffer the penalty of not less than SIX (6) YEARS and ONE (1) DAY nor more than eight (8) years of prision mayor; to pay the heirs of the deceased Moro Lario in the amount of P2,000; with the accessory penalties prescribed by law; and to pay the costs of these proceedings."

The defendant thru his same counsel is appealing from that decision, claiming that the lower court erred in applying the provisions of Art. 248, subsection 1 of the Revised Penal Code instead of Art. 247 of the same code which provides for the application of the penalty only of destierro. The Solicitor General in his brief says that judging from what transpired during the arraignment as well as from the contention of counsel for the appellant, it is highly possible that there was misunderstanding on the part of said appellant when he entered the plea of guilty; also that his counsel may have believed that the entry of plea of guilty by his client was conditioned on the penalty provided for by Art. 247 of the Revised Penal Code being imposed upon his client. We are inclined to agree with the Solicitor General.

Examining the record, it seems to us that the proceedings had in the lower court have been quite irregular, characterized by a series of errors and misunderstandings not only on the part of the counsel for the defendant but also on the part of the court itself. Counsel should have known that an accused may not enter a conditional plea of guilty in the sense that he admits his guilt provided that a certain penalty be imposed upon him. In such a case, the information should first be amended or modified with the consent of the Fiscal if the facts of the case so warrant. Otherwise, by entering a plea of guilty the defendant admits all the material allegations of the information which in the present case are that appellant committed the crime of murder with the aggravating circumstance of evident premeditation.

And as to the trial court, as already stated, without taking any evidence whatsoever, it dictated the decision in open court containing facts or findings of fact which are not supported by the evidence for the simple reason that no evidence whatsoever had been presented. For instance, the decision enumerates as one of the mitigating circumstances the fact that the accused acted upon an impulse so powerful as naturally to have produced passion or obfuscation. No witness, not even the accused was put on the witness stand. So, naturally, this supposed mitigating circumstance could not have been established. Neither was the theory of the defense as to how the killing was done, proven or attempted to be proven. The same thing may be said of the supposed mitigating circumstance of voluntary surrender. No witness, not even a certificate or admission by any official, established this fact. In its decision, the trial court also states that the accused is a "Yakan" belonging to the non-Christian Tribe and hopelessly ignorant. No evidence on this point was taken. It seems that the trial court listened to the conflicting statements and claims of the Fiscal and counsel de oficio, accepted some and rejected others and then dictated its sentence on what it thought to be the facts of the case, plus the plea of guilty entered by the accused. Said procedure is, of course, wrong. Findings of fact of a court must have basis and support. And in a case as serious as murder, the court should not content itself with a plea of guilty, especially by a Non-Christian whom it considers to be hopelessly ignorant, but should receive evidence to satisfy itself that the crime had really been committed, and the circumstances surrounding its commission.

It seems to be the theory of the prosecution, judging from the statements of the fiscal, that the victim Moro Lario and the appellant's wife Mora Masilayan had been maintaining illicit relation, and that because of this, appellant divorced her according to the Moro custom, and that to avenge the dishonor caused him, on the day of the killing he surprised Moro Lario taking a bath in a river, whereupon he attacked and killed him. It is equally the claim of the defense as stated by counsel that altho defendant had divorced his wife, they were later reconciled and again lived together; that one day said wife went to the river to fetch water but the deceased upon seeing her there, criminally attacked and succeeded in having sexual intercourse with her; that she shouted for help, her shouts bringing her husband running to her rescue, and that finding the deceased still on top of his (defendant's) wife, he (defendant) attacked, pursued and killed Lario with a bladed weapon.

If either one of these theories is correct, it is to the interest of justice that it be established in regular proceedings and by means of evidence.

We repeat that we are inclined to agree with the Solicitor General that there must have been misunderstanding as to the entry of the plea of guilty by the accused. In this connection we quote a portion of the decision of this Court in the case of *U. S. vs. Jamad*, 37 Phil. 305, which we find pertinent:

"Having in mind the danger of the entry of improvident pleas of 'guilty' in criminal cases, the prudent and advisable course, especially in cases wherein grave crimes are charged, is to take additional evidence as to the guilt of the accused and the circumstances attendant upon the commission of the crime.

"The better practice would indicate that, when practicable, such additional evidence should be sufficient to sustain a judgment of conviction independently of the plea of guilty, or at least to leave no room for reasonable doubt in the mind of either the trial or the appellate court as to the possibility of a misunderstanding on the part of the accused as to the precise nature of the charges to which he pleaded guilty.

* * * * *

"But in the event that no evidence is taken, this Court, if called upon to review the proceedings had in the court below, may reverse and send back for a new trial, if, on the whole record, a reasonable doubt arises as to whether the accused did in fact enter the plea of 'guilty' with full knowledge of the meaning and consequences of the act."

Setting aside the decision appealed from and acting upon the recommendation of the Solicitor General, it is hereby ordered that the case be returned to the trial court for new trial. It is suggested that the observations made in this decision be noted by the trial court and counsel for the appellant so that the irregularity in the proceedings had before and the errors and misunderstanding attending, be not repeated.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Reyes and Jugo, JJ., concur.

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