

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. JUAN FRANCISCO, DEFENDANT AND APPELLANT.

G.R. No. L-30763. June 29, 1972

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Automatic review of the death penalty imposed by the Court of First Instance of Bukidnon upon the accused's plea of guilty.

The information of August 2, 1968 filed against the accused charged:

"That on or about 25th day of July, 1968, in the afternoon, in barrio Gutapol, municipality of Kibawe, Province of Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to rape Josefa Abusejo, a little girl, 9 years old, did then and there willfully, unlawfully and criminally drag her to a coffee plantation, throw her to the ground, pull out her panty, place himself on top of her, insert his penis into her vagina and have sexual intercourse with her, and right then and there in order to prevent her from complaining, by reason of the rape and on the occasion thereof, did then and there willfully, unlawfully and criminally box maul, strangulate and kill said offended party.

"Contrary to and in violation of Article 335 of the Revised Penal Code as amended by Republic Act 4111."

The record shows that the arraignment of the accused as scheduled on two previous occasions could not be held. Counsel de oficio, Atty. Galdino Jardin, having been cited for contempt for non-appearance on the first arraignment date set on January 10, 1969[1] satisfactorily explained that he did not actually receive the notice thereof as it was sent to his temporary address at Maramag, Bukidnon rather than to his permanent address at Lapasan, Cagayan de Oro City.[2] The second arraignment date as set on March 28, 1969 was postponed at said counsel's telegraphed request on the ground of his wife's having a hemorrhage after childbirth[3] and the lower court then set "the arraignment and trial of this case * * * for the last time on April 30, 1969 at 8:30 in the morning." [4]

On April 29, 1969 counsel again wired the trial court for a transfer of the hearing of the case to May 13, 1969 on the ground of a "prior engagement forcible entry case city court Cagayan." [5] The record does not show that any action was taken by the trial court thereon. Instead, it shows that the arraignment was held as scheduled on April 30, 1969 at 8:30 a.m. and that the accused, assisted by his said counsel de oficio, Atty. Jardin, pleaded guilty[6] and that on June 7, 1969, the trial court's sentence of death dated April 30, 1969[7] was promulgated.[8]

The trial court's decision, after reproducing the information and recounting the proceedings held on April 30, 1969 as follows:

"Before arraignment, Atty. Galdino Jardin, counsel de oficio of the accused, informed the Court that he had conferred with the accused and made him understand the gravity of the offense he is charged of and the full consequences of a plea of guilty in view of the fact that the accused himself offered to interpose this plea, thus making the court understand that the proffered plea was the accused's own desire without any prompting from

anybody.

"Effectively, upon arraignment, the said accused Juan Francisco spontaneously pleaded guilty to the aforesaid crime of rape with homicide."

pronounced the following sentence against the accused:

"The crime of rape with homicide is now penalized with the single indivisible penalty of death (last paragraph, Article 335 of the Revised Penal Code as amended by Republic Act No. 4111). This being so, the mitigating circumstance of plea of guilty cannot at all benefit him. (First paragraph, Article 63, Revised Penal Code).

"WHEREFORE, this court finds the accused Juan Francisco guilty of the crime of rape with homicide beyond reasonable doubt and imposes on him the penalty of death and to indemnify the heirs of the deceased Josefa Abusejo in the sum of Six Thousand (P6,000.00) Pesos and to pay the costs."

Atty. Antonio R. Aranda was appointed by the Court as counsel de oficio for this proceeding. While he recognizes in his brief the general rule that the accused's plea of guilty, if properly and validly entered, is deemed to be an admission of all the material allegations of the information, he pleads that the barely 4-page transcript of the proceedings "points to a serious irregularity in the arraignment of appellant," as follows:

"Answering a question directed by the presiding judge of the trial court, appellant informed him – "Accused: 'I am a Visayan waray. I like the information to be interpreted to me in Visayan waray dialect.' (t.s.n. p. 2, hearing of April 30, 1969)

"Yet, it would appear that appellant's counsel de oficio in the trial court, WHO DID NOT KNOW HOW TO TALK THE WARAY DIALECT by his own admission (t.s.n. p. 2, hearing of April 30, 1969), made a manifestation in the following tenor:

"Atty. Jardin: 'Your honor, before the arraignment of the accused, I would like to manifest that I have conferred with the accused and informed him of the gravity of this case and explained to him fully and thoroughly the consequences of conviction and the accused volunteered to enter the plea of guilty and I think it is impossible now for me to enter into the trial of this case as the accused is willing as I said to interpose a plea of guilty.' (t.s.n. p. 3)

"How was it possible for appellant to fully understand the consequences of a plea of guilty when his counsel de oficio, who allegedly explained the same, did not know how to speak the waray dialect ? How could we now safely assume that the plea of guilty was appellant's own and spontaneous desire with full knowledge of the consequences of his act, as well as the gravity of the penalty that could be, as was actually, imposed upon him? "[9]

Counsel de oficio Aranda therefore pleads that "(I)nvolving, as it does, a very grave offense that carries with it the capital punishment of death, counsel de oficio sincerely believes that to fully implement appellant's rights as an accused a re-arraignment should be had. He, therefore, respectfully requests this Honorable Tribunal to direct the trial court to do so. Without the intention of being presumptuous, it is believed that this remedy may afford a chance, should appellant decide to enter the same plea (but now with full knowledge of its consequences), to prove other mitigating circumstances which may convince the trial court against the imposition of the penalty of death," and prays for the setting aside of the lower court's sentence and the remanding of the case for re-arraignment and trial of the accused.

The brief transcript of the proceeding for "arraignment and trial" held on April 30, 1969 bears out counsel's misgivings. Thus after Atty. Jardin informed the trial court of his not knowing the accused's waray dialect, the following was all that transpired:[9a]

"COURT: The Court Interpreter is not a Visayan Waray. May we ask Atty. Jardin, the counsel de oficio of the

accused, to interpret the information to him in his arraignment in the Visayan Waray dialect, if he knows?

"ATTY. JARDIN: I am sorry, Your Honor, that I do not know how to talk the waray dialect.

"COURT: All right, call former Special Deputy Clerk of Court of Branch II, Mr. Agustin Toledo, or Atty. Enrique Casino, the Clerk of Court. I think both of them are in the Court Building of Branch II.

"DEPUTY CLERK ESPARAGOZA: (After his telephone call to Branch II for Mr. Toledo and Atty. Casiño) Atty. Casiño and Mr. Toledo are both out, Sir.

"COURT: Is there anyone here in Court who can interpret the information in waray Visayan dialect?

"The Acting Chief of Police of Kibawe, Bukidnon who is present in the Court room, PC SGT. MARCOS N. CANTIVER:

'I speak and understand the waray Visayan dialect, Your Honor. I will try to interpret the information to the accused.

'COURT: Thank you, Chief. The Court is designa-ting you to interpret the information to the accused in that dialect. Mr. Clerk of Court, take the oath of Chief Cantiver first.

"CLERK OF COURT ESPARAGOZA: Do you swear to interpret the information truly and faithfully to the accused?

"CHIEF CANTIVER: Yes, Sir.

"COURT: By the way, is there any objection in the designation of Chief Cantiver as interpre-ter in the arraignment of the accused.

"FISCAL CHING: No objection, Your Honor.

"ATTY. JARDIN: No objection also, Your Honor, on the part of the defense.

"COURT: Proceed with the arraignment.

"ATTY. JARDIN: Your Honor, before the arraignment of the accused, I would like to manifest that I have conferred with the accused and informed him of the gravity of this case and explained to him fully and thoroughly the consequences of conviction and the accused volunteered to enter the plea of guilty; and I think it is impossible now for me to enter into the trial of this case as the accused is willing as I said to interpose the plea of guilty.

"COURT: Arraign the accused now:

"CHIEF CANTIVER: (After interpreting the information to the accused in waray Visayan)

Your honor, the accused said he has understood the information and he pleaded guilty.

"COURT ADDRESSING THE ACCUSED: Do you understand the information interpreted to you by Chief Cantiver in waray Visayan dialect ?

"ACCUSED AFTER INTERPRETATION BY CHIEF CANTIVER: Yes. Sir.

"COURT: What is your plea, guilty or not guilty?

"Accused after interpretation by Chief Cantiver: I am guilty, Your Honor.

"COURT: Make it of record that the accused spontaneously pleaded guilty. The sentence of the Court is hereby reserved."

The Solicitor-General, while not disputing the record, however, asserts that "the defendant, therefore, had been thoroughly apprised of the nature of the information and was fully aware of the consequences of his plea of guilt," without refuting the applicability of the established ruling in *People vs. Abduhan*[10] and *People vs. Solacito*[11] discussed hereinafter.

It is readily noted with reference to Atty. Jardin's manifestation as to his conference with the accused notwithstanding his unfamiliarity with the accused's waray dialect that the transcript does not at all indicate that his conference was duly interpreted in waray Visayan — in contrast to the subsequent reading of the information and the accused's plea, as to which the transcript expressly records that the same were interpreted in waray Visayan by Chief Cantiver as court-designated interpreter.

Such designation of PC Sgt. Marcos Cantiver, acting chief of police of Kibawe, Bukidnon as interpreter was likewise tainted with irregularity, despite the lack of objection thereto on the part of accused's counsel, since the record shows that Sgt. Cantiver as acting police chief investigated and took the self-incriminating extra-judicial confession of the accused on July 28, 1968.[11a] His designation afterwards as court interpreter to interpret the information to the accused and transmit to the trial court his guilty plea was hardly conducive to having the accused speak out to give his own side, without any sense of restraint and reservation.

The Court thus shares Atty. Aranda's doubt that the accused had been properly given the advice of counsel and made to understand fully the consequences of his plea and inevitable conviction. The importance of adhering to this salutary practice to forestall improvident pleas of guilty particularly when dealing with "an ignorant person with little or no education"[12] as the accused herein seems to be (having merely affixed his thumbmark to his statement[13] has invariably been stressed by the Court.

The governing principle to guard against the entering of improvident pleas of guilty in criminal cases and to give the accused his just due was thus restated by the Chief Justice in *Solacito*: "(I)n *People vs. Acosta*, (98 Phil. 642), we declared that the question of whether or not evidence should be taken, to determine the guilt of the accused who has entered a plea of guilty, and the circumstances attendant upon the commission of the crime; lies within the 'sound discretion' of the court provided that it is 'satisfied that the plea of guilty has been entered by the accused with full knowledge of the meaning and consequences of his act.' Thus, speaking through Mr. Justice Castro, this Court had occasion to advert to the fact that judges are duty bound to be extra solicitous in seeing to it that when an accused pleads guilty he understands fully the meaning of his plea and the import of an inevitable conviction.' (*People vs. Apduhan*)."[14]

In *Solacito*, the Court cited the commendation it gave Judge Alo as the trial judge in *Apduhan* for the questions repeatedly propounded by the trial court to the therein accused to apprise him of the severity of the offense for which he was indicted and the strong possibility that the capital penalty might be imposed upon him despite a plea of guilty – to assure that "the defendant was well aware of the import of his plea and fully realize the consequences thereof."

Where the Court has not been satisfied from the record that the trial court has discharged such duty to the accused, the Court has as in *Solacito* set aside the judgment and remanded the case to the trial court for further proceedings. Thus, the Court similarly remanded the case for further proceedings in the trial court in *People vs. Englatera*[15] and *People vs. Aguilar*,[16] reiterating the advertence in the above-cited cases for trial judges "to be extra solicitous in seeing to it that when an accused pleads guilty he understands fully the meaning of his plea and the import of an inevitable conviction." In the latest case of *People vs. Valera*,[17] Mr. Justice Reyes once more stressed the Court's guideline in such cases that "the court must assure itself that the accused is fully aware of the implications of a plea of guilty."

Here, the trial judge simply concluded that "the accused spontaneously pleaded guilty" without any effort to ascertain that the accused clearly understood the meaning of a guilty plea and its consequence of the possible imposition of the capital penalty despite his guilty plea. The record does not show that the trial court directed any questions to the accused on the circumstances attending the commission of the grave crime of which he was charged so as to leave no room for reasonable doubt as to the possibility of misunderstanding by the accused of the nature and gravity of the charge to which he was pleading guilty.[18]

The present case therefore comes within the ambit of the Court's consistent ruling in the cited cases requiring its remand to the trial court for further proceedings.

ACCORDINGLY, the judgment under review is hereby set aside and the record of the case is remanded to the trial court for further proceedings, in conformity with the views expressed, hereinabove, specifically to have the accused arraigned once more, with assistance of counsel and an objective interpreter and with full information given to him regarding the nature and gravity of the offense charged, the penalty that might be imposed upon him upon a guilty plea, and all other rights that he might be entitled to under the law.

Concepcion, C.J., Reyes, J. B. L., Makalintal, Zaldivar, Ruiz Castro, Fernando, Barredo, and Antonio. JJ., concur.

Makasiar, J., took no part.

[1] Record, page 62.

[2] *Idem*, pages 67, 70.

[3] *Idem*, page 79.

[4] *Idem*, page 80.

[5] *Idem*, page 87.

[6] *Idem*, at page 97.

[7] *Idem*, at page 91.

[8] *Idem*, at page 125.

[9] Italics (except capitals) supplied.

[9a] Italics supplied.

[10] 24 SCRA 798 (Aug. 30, 1968).

[11] 29 SCRA 61, 64. See also *People vs. Arpa* 27 SCRA 1037 (Apr. 25, 1969).

[11a] Record, at pages 17, 88.

[12] *People vs. Bulalake*, 106 Phil. 767.

[13] Record, at p. 17

[14] Italics supplied.

[15] 34 SCRA 245 (July 31, 1970), per Dizon, J.

[16] 37 SCRA 115 (Jan. 29, 1971), per Makalintal, J.

[17] 43 SCRA 207, 210, (Feb. 28, 1972).

[18] *People vs. Sabilul*, 89 Phil. 283 (June 21, 1951).

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