

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RAFAEL V. SERNA AND ANTONIO O. CIPRIANO, ACCUSED, RAFAEL V.
SERNA, DEFENDANT-APPELLANT.**

G.R. No. L-33294. July 25, 1984

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

In Criminal Case No. 150 of the Court of First Instance of Samar, the accused-appellant Rafael Serna together with Antonio Cipriano were charged with the crime of Robbery with Double Homicide, allegedly committed as follows:

"That on or about the 28th day of November, 1970, at nighttime, in the Municipality of Catbalogan, Province of Samar, Philippines, and within in the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, with intent to gain, and by means of force, violence against and intimidation of persons, did then and there willfully, unlawfully, feloniously and forcibly take, steal and carry away with them money in cash amounting to Eighty (P80.00) Pesos, from the hands of Romualdo Villones, belonging to him and one Leonardo Carlos, while said Romualdo Villones was paying for the fish they bought from a fisherman, to the damage and prejudice of the said owners in the aforementioned sum of P80.00, Philippine currency; that on the occasion of the said robbery and for the purpose of enabling them to take, steal and carry away with them the said amount, herein accused, in pursuance of their conspiracy, with treachery and intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab several times said Romualdo Villones and Loneardo Carlos with a dagger and a bolo with which the said accused had conveniently provided themselves for the purpose, thereby inflicting upon said Romualdo Vil-lones and Leonardo Carlos several injuries on their bodies, which injuries caused their death.

That in the commission of the crime, the aggravating circumstance that it was committed with the use of a motorized banca as a means for the flight or concealment of the offenders and also the aggravating circumstance of recidivism, as regards accused Rafael V. Serna, were present, the latter having been previously convicted by final judgment in the Court of First Instance of Manila, and was sentenced to an imprisonment from Ten (10) years to Seventeen (17) years in 1958."[1]

Upon arraignment, appellant Rafael Serna and co-accused Antonio Cipriano pleaded guilty to the crime charged. Both invoked the mitigating circumstance of plea of guilty. Immediately thereafter, the court rendered judgment convicting the two accused of robbery with double homicide, the dispositive portion of which reads, as follows:

"WHEREFORE, the Court hereby finds Rafael V. Serna and Antonio O. Cipriano guilty beyond reasonable doubt as principals of the consummated crime of Robbery with double Homicide defined and penalized under Article 294, paragraph 1, of the Revised Penal Code, and considering the mitigating circumstance of plea of guilty in favor of the accused Antonio O. Cipriano and the aggravating circumstance of the use of a motorized banca to offset the same, hereby sentences Antonio O. Cipriano to Reclusion Perpetua and with respect to the accused Rafael V. Serna, considering the two aggravating circumstances against him, namely, recidivism and

use of a motorized banca in the commission of the crime, one of which is offset by the mitigating circumstance of plea of guilty, hereby sentences Rafael V. Serna to death. Both accused shall suffer the accessory penalties provided by law and to pay the heirs of Romualdo Villones in the amount of P12,000.00 and the heirs of Leonardo Carlos in another sum of P12,000.00 plus P80.00 as indemnities. x x x

x x x x x x x x

Death penalty having been imposed on Rafael V. Serna, the Clerk of Court shall, pursuant to the Rules of Court, transmit this case to the Honorable Supreme Court.

SO ORDERED."[2]

Thereupon, this case was elevated to the Court for automatic review of the death penalty imposed on the defendant-appellant.

The records of this case show that after the information was read to the appellant in English and translated in Samar dialect, the appellant pleaded guilty. Thereafter, the Fiscal asked that the plea of guilty be considered mitigating, at the same time, the Fiscal asked the Court to consider two aggravating circumstances against the accused Serna.[3]

Without explaining the import of the plea of guilty and calling witnesses to convince itself of the culpability of the accused-appellant, the court rendered judgment convicting the accused-appellant Serna and imposing upon him the supreme penalty of death. The trial judge did not even bother to ask appellant whether he understood his plea as the transcript merely stated that after the information was read in English and translated to the Samar dialect, appellant pleaded guilty.

Considering that the appellant was charged with an offense punishable by death, the trial court should have required the prosecution to present its evidence to prove the extent of his culpability. The taking of such testimony is the prudent and proper course to follow for the purpose of establishing not only the guilt but also the precise culpability of the defendant.[4]

Where a plea of guilty is entered by the defendant, in cases where the capital penalty may be imposed, the court should make certain that defendant fully understands the nature of the charge preferred against him and the character of the punishment provided by law before it is imposed. The trial court should therefore call witnesses for the purposes of establishing the guilt and degree of culpability of the defendant, not only to satisfy the trial judge, but also to aid the Supreme Court in determining whether the accused really and truly understood and comprehended the meaning, full significance and consequences of his plea.[5]

WHEREFORE, the judgment under automatic review is hereby SET ASIDE and the case REMANDED to the trial court for further proceedings. SO ORDERED.

Fernando, C.J., Makasiar, Guerrero, Abad Santos, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., De la Fuente, and Cuevas, JJ., concur.

Teehankee, J., no part.

Aquino, J., see dissent.

[1] Original Record, pp. 30-31.

[2] Original Record, pp. 33-35.

[3] tsn., Feb. 17, 1971, p. 4.

[4] People vs. Alibasa, 118 SCRA 183.

[5] People vs. Gonzales, 92 SCRA 527.

DISSENTING OPINION

AQUINO, J.:

I dissent with due deference to Mr. Justice Concepcion Jr.

The trial court convicted Rafael V. Serna and Antonio O. Cipriano of robbery with double homicide because of their plea of guilty. It sentenced Cipriano to reclusion perpetua. He did not appeal.

It sentenced Serna to death on the assumption that recidivism and use of a motorized banca were aggravating. As admitted by the Solicitor General, recidivism is not aggravating because the information does not allege the prior crime for which Serna was convicted.

The Solicitor General also admits that use of motorized banca is not aggravating because it was used as means of flight, not as a means for the commission of the crime. He says that treachery is generic aggravating but then it is offset by plea of guilty.

The fact that there was more than one homicide should not be aggravating because that circumstance is not mentioned in article 14 of the Revised Penal Code.

So, the Solicitor General recommends that Serna be punished with reclusion perpetua.

There was no improvident plea because Serna understood the consequences of his plea. The rule is stated in People vs. Palupe, 69 Phil. 703, 705:

"Cuando un acusado admite libre y voluntariamente su delito con pleno conocimiento de la indole exacta del mismo, su admisión, o mejor dicho, su confesión, hecha en dichas circunstancias, es suficiente para justificar la imposición de la pena que para dicho delito hay prescrita por la ley.

"Es discrecional en los juzgados permitir la presentación de pruebas adicionales después que el acusado haya confesado formalmente su delito.

"Tan sólo es prudente y necesario tal vez, requerir la presentación de otras pruebas además de las que el mismo acusado suministra mediante su confesión libre y voluntaria, cuando hay un ásono de duda de que al hacerla, no la hace estando bien impuesto de los verdaderos hechos, y de las consecuencias de su acto." (See People vs. Duaban, L-31912, August 24, 1979, 92 SCRA 743.)

In the instant case, the offense was committed in 1970. After 14 years, no purpose would be served in remanding the case to the lower court for the pre-sentation of the prosecution's evidence.

Serna should be sentenced to reclusion perpetua.

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