

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GEORGE DAENG, CONRADO BAUTISTA, GERARDO ABUHIN, AND
ROLANDO CASTILLO, DEFENDANTS-APPELLANTS.**

G.R. No. L-34091. January 30, 1973

Ponente: CASTRO, J.

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CASTRO, J.:

The defendants-appellants George Daeng, Conrado Bautista, Gerardo Abuhin and Rolando Castillo were indicted for the crime of murder (Criminal Case C.C.C. VII 847-Rizal) before the Circuit Criminal Court holding sessions in Pasig, Rizal. The information reads:

"That on or about December 13, 1970, in the New Bilibid Prison, Muntinlupa, Rizal, Philippines, and within the jurisdiction of this Honorable Court, the said accused while then confined at the said institution, conspiring, confederating and acting together and each armed with improvised deadly weapons, did then and there wilfully, unlawfully and feloniously assault and wound therewith one Basilio Beltran, No. 71495-P, another convicted prisoner serving final sentence in the same institution, then in the process of serving the accused breakfast, inflicting upon him multiple stab wounds, while then unarmed and unable to defend himself from the attack launched by the accused, as a result of which the said Basilio Beltran died instantly.

"That the offense when committed by the accused was attended by the qualifying circumstance of evident premeditation and obvious ungratefulness."

On June 28, 1971, all the four defendants pleaded not guilty to the charge. Shortly before the trial was adjourned for another date, the trial judge addressed the following words to the defendants:

"I understand that you are confused and you are not ready to plead guilty to the crime charged but the court is, however, giving you today and tonight up to 8:00 o'clock in the morning tomorrow to make a' soul search, concentrate and ask your heart, mind and body as to the consequence of your act because under Art. 160 of the Revised Penal Code, by virtue of the crime that you have committed, the Court has no alternative except to impose the death penalty which is the maximum penalty provided for by Art. 248 of the Revised Penal Code. So, I repeat again that you make a thorough soul searching as to the consequence of your act and the life you will face in the future that is death. You have to understand that the duty of this Court is merely to interpret and apply the law and it has no power to assume the executive authority to pardon you or parole you or lower the penalty, This Court has the duty alone which is to apply the law. That is his primary duty. It is up for the executive department to give you the necessary clemency if they deem it necessary, so I am giving you up to tomorrow at 8:00 o'clock, June 29, to make up your minds."

On the following day, June 29, 1971, the defendants, assisted by counsel de oficio, withdrew their former plea of "not guilty" and substituted that of "guilty." Allowing the change of pleas, the trial judge forthwith dictated and promulgated his decision in open court. All the four defendants were sentenced to death.

We are now called upon to review this case on automatic appeal.

- In the brief filed by the defendants, their counsel de oficio, Arty. L.M. Cabasal, avers that the circumstances attending their change of plea from "not guilty" to "guilty" generate serious doubt regarding the said defendants' ability, at the time, to appreciate fully the import and consequences of their turn-about. The Solicitor General, as counsel for the People of the Philippines, joins this view, pointing out that "the records do not show that the trial court explained to the four appellants the full import and meaning of their plea of guilty, nor did it conduct any inquiry to remove all reasonable possibility that said appellants might have entered their plea of guilty improvidently or without a clear and precise understanding of the exact nature of the charge preferred against them and the import of an inevitable conviction thereof."

We have examined the manner by which the trial court allowed the defendants to change their plea, and we ourselves are convinced that the defendants were not at all made to understand and appreciate the real nature and consequences of their decision to enter another plea. The defendants, at the time they were arraigned, pleaded not guilty. The record does not show that they needed, nay, wanted additional time within which to consider or reconsider their initial plea. The subsequent remark of the trial judge, to wit: "I understand that you are confused and you are not ready to plead guilty to the crime charged..." on the basis of which the judge gave the defendants twenty-four hours within which to ponder their situation, is susceptible of being interpreted as an outright solicitation by the court itself of a change of plea by the accused. The further remark that "... because under Art. 160 of the Revised Penal Code, by virtue of the crime that you have committed [*italics ours*] the Court has no alternative except to impose the death penalty ...," while perhaps intended differently by the trial judge, could mean, to an unschooled prisoner, that the judge had already assumed his guilt and that the death sentence was inescapable. It is not farfetched that one, some, or all of the four defendants changed his or their pleas simply out of resignation to what appeared to him or to them as a preordained fate.

The judge's curt speech to the defendants, instructing them 'to make a soul search, concentrate and ask [their] heart, mind and body as to the consequence of [their] act,' falls far below the exacting standard of care with which a plea of guilty must be regarded by a trial court, as spelled out in a line of decisions starting with *People vs. Apduhan*.^[1] In the latter case, we explicitly said that all trial judges "must refrain from accepting with alacrity an accused's plea of guilty, for while justice demands a speedy administration, 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."

- The counsel de oficio and the Solicitor General are one in observing that the trial court should not have rendered the decision appealed from without requiring the presentation of evidence despite the accused's plea of guilty. Indeed, as correctly pointed out by both counsels, this Court has repeatedly stressed the importance and advisability of taking evidence, in capital cases, notwithstanding the affirmative plea of the accused, for the purpose of determining his guilt and the degree of his culpability, to the end that such evidence will dispel all doubt that the accused misunderstood the nature and effects of his plea.^[2] The record of the present case does not show that the trial court directed any question to any of the accused regarding the circumstances attending the commission of the grave crime of which he is charged. And because of the nature of the present case which was an offshoot of the gang war that plagued the various prisons in the country during the second half of 1970, it is not a remote possibility, as suggested by both the counsel de oficio and the Solicitor General, that one or some of the four defendants may have acted only as an accomplice or as accomplices, or that the qualifying circumstance of treachery may not at all have been present, thus making the crime only that of homicide which does not warrant imposition of the extreme penalty of death.

One last note. In at least three criminal cases appealed to us, including the present,^[3] from the Circuit Criminal Court holding sessions in Pasig, Rizal, involving prisoners charged with and convicted for participation in prison

gang wars, Atty. Jose O. Galvan has been appointed by the court a quo to act as counsel de oficio for the defendants. In every case, the defendants either pleaded guilty on initial arraignment or later changed their plea from "not guilty" to "guilty." The appointment of Atty. Galvan as counsel de oficio in all three cases might just have been a coincidence since there is no evidence before us that would show that he had applied for and been granted such appointment. We would, nevertheless, caution all courts against the frequent appointment of the same attorney as counsel de oficio, for two basic reasons: first, it is unfair to the attorney concerned, considering the burden of his regular practice, that he should be saddled with too many de oficio cases; and, second the compensation provided for by Section 32 of Rule 138 of the Rules of Court (a fixed fee of P500 in capital offenses) might be considered by some lawyers as a regular source of income, something which the Rule does not envision. In every case, the accused stands to suffer because the overburdened counsel would have too little time to spare for his de oficio cases, and also would be inordinately eager to finish such cases in order to collect his fees within the earliest possible time.

ACCORDINGLY, the decision a quo is set aside, and this case is hereby remanded to the court of origin for a new arraignment of the defendants George Daeng, Conrado Bautista, Gerardo Abuhin and Rolando Castillo, and for further proceedings in accordance with law and consistently with the views herein expressed. No costs.

Makalintal, Zaldivar, Fernando, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

Concepcion, C.J., did not take part.

[1] L-19491, August 30, 1968, 24 SCRA 798; see also the recent case of *People vs. Matias, et al.*, L-35384, November 28, 1972, and the cases cited under footnote 1 thereof.

[2] First enunciated in *U.S. vs. Talbanos*, 6 Phil. 541, and later affirmed in the following cases; *U.S. vs. Rota*, 9 Phil. 426; *U.S. vs. Agcaoili*, 31 Phil. 91; *U.S. vs. Jamad*, 37 Phil. 305; *People vs. Bulalake*, 106 Phil. 767; *People vs. Espina*, L-33028, June 30, 1972, 45 SCRA 614; *People vs. Simeon*, L-33730, September 28, 1972.

[3] *People vs. Simeon*, supra; *People vs. Ricalde*, L-34673; and *People vs. Daeng*, L-34091.

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