

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS.
QUINTINO “BOY” YBANEZ, ET AL., DEFENDANTS,
QUINTINO “BOY” YBANEZ, DEFENDANT AND
APPELLANT.**

G.R. No. L-35877. December 20, 1974

Ponente: MAKALINTAL, C.J.

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MAKALINTAL, C.J.:

In an information dated February 10, 1967 filed in the Court of First Instance of Agusan del Norte and Butuan City, Quintino "Boy" Ybanez and six others were charged with the complex crime of robbery with homicide and rape.* On July 19, 1967 Ybanez was arraigned. With the assistance of counsel de oficio, Atty. Jose R. Villanueva, he pleaded not guilty to the charge. When the case was called for trial on August 21, 1967 the prosecution presented Rufina Lantajo Perol, who testified on the circumstances attending the commission of the crime. It appears, however, that on the same day Ybanez' counsel had moved for a separate trial, which motion was granted by the court.

On the night of August 22, 1967 accused Ybanez, together with one of his co-accused, escaped from the provincial jail, so the hearing of the case had to be suspended indefinitely. He was subsequently apprehended, after which, Atty. Tranquilino O. Cabo, Jr. was appointed as his counsel de oficio. In an order dated October 11, 1968 the trial court reset the case for arraignment and trial on November 11, 1968. On that date Ybanez was arraigned for the second time and with the assistance of his new counsel de oficio he entered a plea of not guilty. Thereupon the lower court set the trial on the merits for February 6, 1969.

Meanwhile, in an order dated November 27, 1968, the trial court appointed Atty. Ismael Sanchez as counsel de oficio for accused Ybanez "for purposes of arraignment only" and set the arraignment for the next day. This order was issued, according to the court because Ybanez "manifested in open court his willingness to enter a plea of guilty despite the fact that he was apprised by the court that the charge against him, being a complex crime, would force this court to give him the maximum penalty of the greater crime charged which is Death." However, "upon request of accused Quintino 'Boy' Ybanez on the ground that he needs the presence of his counsel de oficio, Atty. Tranquilino O. Calo, Jr.," the trial court ordered that the case be called on February 6, 1969, as previously scheduled. Thereafter the arraignment was postponed twice more, first to March 10 and secondly to April 10, 1969.

On this last mentioned date the trial court appointed Atty. Alfredo Sabater as counsel de oficio for accused Ybanez "for purposes of arraignment only." With the assistance of this new counsel Ybanez was allowed to withdraw his plea of not guilty and to substitute it with one of guilty. Whereupon the trial court sentenced him to death.

The case is now before Us for mandatory review.

This Court appointed Atty. Edgardo J. Angara as counsel de oficio. In his exhaustive and well-written brief, counsel asks that the judgment of the trial court be set aside and that the case be remanded for further appropriate proceedings. He alleges, among other things, that the trial court erred in convicting the accused solely on his plea of guilty without having sufficiently explained to him the nature of the crime charged and the consequences of a plea of guilty; and in not taking evidence to the appellate court in determining whether or not said accused understood the consequences of his plea and whether or not the circumstances really justified the imposition of the death penalty.

In his manifestation and motion in lieu of appellee's brief, the Solicitor General agrees with counsel and makes the same prayer for remand.

We set aside the decision of the trial court.

The transcript of the stenographic notes taken during the arraignment on April 10, 1969 reads:

"COURT:

Appearances:

"FISCAL FAMADOR:

Ready for the people Your Honor.

"COURT:

Appearance for the accused:

"ATTY. AMOROSO:

. . . .

"COURT:

Where is your lawyer Quintino Ybanez?

"ACCUSED YBANEZ:

I do not have any lawyer, sir.

"COURT:

Are you going to plead guilty?

"ACCUSED YBANEZ:

Yes, Your Honor.

"COURT:

Remember, this is a case of robbery with homicide and rape. The least that you can get is the electric chair.

"ACCUSED YBANEZ:

Yes, Your Honor.

"COURT:

Is the Court right Fiscal? What penalty can you recommend? I don't think it can brought lower. What do you say Fiscal?

"FISCAL FAMADOR:

The offense committed is a offense and the maximum penalty is death, maximum of the graver offense. The prosecution can only abide by the Rules and I leave to the counsel whatever mitigating circumstance he can invoke.

"COURT:

Was Quintino Ybanez already arraigned?

"FISCAL FAMADOR:

Yes, Your Honor.

"COURT:

Quintino Ybanez, do you need a counsel de oficio for purposes of your plea of guilty in the absence of your counsel de oficio, Atty. Tranquilino O. Calo, Jr.?

"ACCUSED YBANEZ:

Yes, Your Honor.

"COURT:

I will give you a retired Provincial Fiscal of Leyte who has been such for twelve years. Atty. Alfredo Sabater hereby appointed counsel de oficio for accused Quintino "Boy" Ybanez for purpose of arraignment only, the accused having manifested in open court his willingness to plead guilty.

So Ordered.

"SECOND CALL:

. . . .

"COURT:

Appearances:

"ATTY. SABATER:

Appearing Your Honor as counsel de oficio for the accused. After explaining to him the advantages and disadvantages of arraigning him today, the accused is insistent and desires to be arraigned today.

"COURT:

As far as the record is concerned, has Ybanez been arraigned already?

"ATTY. SABATER:

Yes, Your Honor.

"COURT:

All right, in the interest of justice, let his plea of not guilty be withdrawn.

"ATTY. SABATER:

In view of the manifestation of the accused Your Honor, we are, therefore, respectfully withdrawing his plea of not guilty when he was last arraigned and ask that it be substituted to a plea of guilty.

"COURT:

Any objection Fiscal?

"FISCAL FAMADOR:

No objection, Your Honor.

"COURT:

As prayed for by Atty. Alfredo Sabater, counsel de oficio for accused Quintino "Boy" Ybanez, the plea of not guilty of the accused is hereby withdrawn and the said accused is hereby ordered arraigned anew.

(The Information was read by the Interpreter to accused Quintino "Boy" Ybanez).

"INTERPRETER:

Are you guilty or not?

"ACCUSED YBANEZ:

Your Honor, before I make a plea of guilty, I want to say something to this Honorable Court. The truth Your Honor please is in connection with this case, these two people now, Perol and Rele are not involved in the crime. The only ones who committed the crime were Tony Burdeos, Bayugan, a certain Ben Waray Waray and me. That is the truth Your Honor.

"COURT:

Do you have anything more to say?

"ACCUSED YBANEZ:

No more, Your Honor.

"COURT:

What do you say?

"ATTY. SABATER:

The accused explained to the Honorable Court the reason why he is pleading guilty. In view of that Your Honor, we submit his plea of guilty.

"COURT:

Have we begun already the trial of this case Fiscal?

"FISCAL FAMADOR:

Yes, Your Honor.

"COURT:

Then the plea of guilty cannot be availed anymore, Fiscal, as a mitigating circumstance. What penalty do you recommend?

"FISCAL FAMADOR:

Article 48 of the Revised Penal Code says when the crime is committed complexed with another, the maximum penalty of the graver offense is invoked. The offenses committed are punishable from life to death.

"COURT:

Sentence —

"When this case was called for arraignment, accused Quintino "Boy" Ybanez appeared in court accompanied by his counsel de oficio, Atty. Alfredo Sabater who upon being arraigned in open court voluntarily and spontaneously declared GUILTY to the information of robbery with homicide and rape read to him. The prosecution was represented by First Assistant Provincial Fiscal Elmo M. Famador.

"The Court, accepting the plea of guilty, hereby finds accused Quintino "Boy" Ybanez guilty beyond reasonable doubt of the crime of robbery, complexed with homicide and rape provided for and punished under Arts. 294, 249 and 335 of the Revised Penal Code.

"Considering no mitigating circumstance in his favor, the plea of guilt not being considered as a mitigating circumstance in view of the fact that the prosecution has already started to present its witnesses against said defendant, and considering that all the aggravating circumstances have been admitted by the said accused, the Court finds it its painful duty to hereby sentence said accused, pursuant to Art. 48 of the Revised Penal Code, to the maximum penalty of DEATH by electrocution, to indemnify the heirs of deceased Jorge Lantajo the sum of P12,000.00 and to pay one-third (1/3) of the costs.

"The weapon used in the commission of robbery and homicide was not recovered.

"SO ORDERED."

The aforequoted transcript of the proceedings shows that the trial court failed to take necessary steps to assure itself that the plea of guilty was not improvidently entered, that is, with full knowledge of the meaning, significance and consequences of his act, especially considering that he had twice before pleaded not guilty. All the court did was to remind the appellant that "this is a case of robbery with homicide and rape" and to inform him that "(T)he least that you can get is the electric chair."

The trial court disregarded our injunction in *People vs. Apduhan*[1] to all trial judges to "retrain 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 understand fully the meaning of his plea and the import of an inevitable conviction." In *People vs. Lacson*,[2] this Court had occasion to reiterate the rule "that in capital offenses the taking of testimony, notwithstanding the plea of guilty, is the proper and prudent

course to follow to establish the guilt and precise degree of culpability of the accused and not only to satisfy the trial judge but to aid the Supreme Court in determining whether accused really and truly understood, and comprehended the meaning, full significance and consequences of his plea."

What this Court said in *People vs. Busa*[3] is particularly apropos: "In sum and substance, it will not suffice, under the law providing for compulsory review of death sentences by this Court, that the accused's plea of guilty is admitted and, on the basis thereof, that judgment is summarily rendered. The essence of judicial review in capital offenses is that while society allows violent retribution for heinous crimes committed against it, it always must make certain that blood of the innocent is not spilled, or that the guilty are not made to suffer more than their just measure of punishment and retribution. Thus, a judgment meting out penalty of death is valid only if it is susceptible of a fair and reasonable examination by this Court."

WHEREFORE, the judgment appealed from is hereby set aside and the case remanded to the court a quo for a new arraignment of the accused with the assistance of counsel and for further proceedings in accordance with law and consistently with the views herein expressed.

Castro, Fernando, Teehankee, Barredo, Makasiar, Antonio, Esguerra, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

* Criminal Case No. 3339.

[1] L-19491, August 30, 1968, 24 SCRA 817.

[2] L-33060, February 25, 1974, 55 SCRA 589.

[3] L-32047, June 25, 1973, 51 SCRA 317.

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