

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EPIFANIO FLORES Y MARIKIT ALIAS EDWIN BANATLAO,
DEFENDANT-APPELLANT.**

G.R. No. L-32692. July 30, 1971

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This case is before this Court on mandatory review of the judgment of the Circuit Criminal Court of Malolos, Bulacan, imposing upon the defendant, Epifanio Flores y Marikit, alias Edwin Banatlaos, the penalty of death upon his plea of guilty to the charge of robbery with homicide.

In the brief filed by the law firm of Burgos and Sarte, counsel de oficio, it is recommended that the case be remanded to the court a quo so that the defendant may be arraigned anew and the meaning and possible consequences of a plea of guilty explained clearly to him in order to preclude any doubt that if he enters such a plea he does so voluntarily and intelligently. The same recommendation is made by the Solicitor General.

The record does not show that minutes were taken of the proceedings below. The decision under review, however, recites what transpired. The defendant appeared for arraignment without counsel. With his consent the court appointed de oficio counsel, who thereupon manifested that the defendant was intending to plead guilty but would like to have the information read to him in Pilipino. This request was complied with, after which he "intimated that he fully comprehended the same and signified his willingness to plead guilty to the offense charged, the consequences of which he likewise understood."

The trial court then passed sentence, taking into consideration the aforesaid plea as a mitigating circumstance and the three aggravating circumstances alleged in the information, namely, superior strength, nocturnity and recidivism.

As pointed out by counsel the terms "nocturnity" and "superior strength" have each a legal significance not ordinarily understandable to a layman unless explained to him. In itself nighttime is not an aggravating circumstance, and becomes one only where it is especially sought by the offender or taken advantage of by him to facilitate the commission of the crime or to avoid discovery and thus minimize the risk of capture. In the same manner, abuse of superior strength is a relative factor, and may depend upon other circumstances than mere numerical superiority of the aggressors[1] - circumstances which may be correctly appreciated by a trial judge only upon searching inquiry. Such inquiry should of course include the existence of mitigating circumstances, if any, since they affect the determination of the proper penalty.

The norm that should be followed where a plea of guilty is entered by the defendant, especially in cases where the capital penalty may be imposed, is that the court should be sure that defendant fully understood the nature of the charges preferred against him and the character of the punishment provided by law before it is imposed. While there is no law requiring it, yet where the penalty may be death, it is advisable for the court to call witnesses for the purpose of establishing the guilt and the degree of culpability of the defendant.[2] The latest decision on this

point is in the case of *People vs. Remegio Estebia*, G. R. No. L-26868, July 29, 1971, where this Court, speaking through Mr. Justice Enrique Fernando, stated: ". . . inasmuch as judgments of conviction imposing the extreme penalty of death are subject to review by the Supreme Court as law and justice shall dictate, whether the defendant appeals or not, which automatic review neither the Court nor the accused could waive or evade, it would seem that the proper and prudent course to follow where the accused enters a plea of guilty to capital offenses especially where he is an ignorant person with little or no education, is to take testimony 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."

Wherefore, the decision under review is set aside and the case remanded to the court a quo for a new arraignment of the defendant, with assistance of counsel and with the precautions herein indicated.

Concepcion, C.J., Reyes, J.B.L., Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, and Makasiar, JJ., concur. Villamor, J., took no part.

Dizon, J., on official leave.

[1] *People vs. Apduhan*, 24 SCRA 798; *People vs. Boyles*, 11 SCRA 88.

[2] *People vs. Virgilio Solacito*, G. R. No. L-29209, August 25, 1969, Citing *U.S. vs. Talbanos*, 6 Phil. 541; *U.S. vs. Rota* 9 Phil. 426; *U.S. vs. Agcaoili*, 31 Phil. 91.

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