

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO ARIOLA AND ROLANDO GALANG, ACCUSED-APPELLANTS.

G.R. No. L-38457. October 29, 1980

Ponente: GUERRERO, J.

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GUERRERO, J.:

For the death of Maximino Padilla, a 21-year old prisoner serving sentence at the New Bilibid Prison, Muntinlupa, Rizal, on the occasion of a prison riot on March 30, 1971, fellow prisoners Eduardo Ariola, Rolando Galang, Lamberto Dungo and Rafael Echane were charged with murder.

Upon arraignment on July 6, 1973, Eduardo Ariola and Rolando Galang, duly assisted by counsel, entered a plea of guilty, while Lamberto Dungo and Rafael Echane pleaded not guilty. Thereupon, trial was held and evidence was presented by both the prosecution and the defense.

The prosecution put on the witness stand Dr. Alberto Reyes who testified on his postmortem examination of the body of the victim, Maximino Padilla, stating that the cause of the latter's death was hemorrhage, severe, resulting from multiple stab wounds.[1] He found that the victim sustained 17 stab wounds and 3 incised wounds, ten of which were found at the back of the body.[2]

Other prosecution witnesses were Tolentino Avelina and Jesus Tomagan, both prison guards-investigators, who testified having conducted separate investigations of accused Rolando Galang and Eduardo Ariola, respectively. They declared that said accused admitted their participation in the crime, recounted in detail how the assault was perpetrated and surrendered their respective weapons to them. As proof of said admission, they identified in court the sworn statements of Rolando Galang, marked as Exhibit "D", and Eduardo Ariola, marked as Exhibit "F", as well as the weapons respectively used by the said two accused, marked as Exhibits "D-5" and "G".

When the turn of the defense to present evidence came, accused Rolando Galang and Eduardo Ariola testified. Rolando Galang admitted having been convicted by final judgment for the crime of murder before the Circuit Criminal Court of Manila.[3] He likewise admitted having placed his signature on a sworn statement but claimed that he did not read the same.[4] When asked as to whether there was any plan among his gang mates to kill the victim, he answered that there was none. He claimed that they made no plans to retaliate against their enemies, only plans to defend themselves.[5] He likewise claimed that the victim was armed with a "matalas" at the time of the incident.[6]

Eduardo Ariola testified having been convicted by final judgment for the crimes of homicide and murder by the Court of First Instance of Zambales and the Circuit Criminal Court of Manila, respectively.[7] He admitted that he killed the victim by stabbing him on the arm and shoulder but claimed that he did not do so intentionally.[8] He also admitted having signed a sworn statement but claimed that he did not understand the investigator.[9]

During the scheduled trial of the case on February 27, 1974, the prosecution manifested and prayed in open court for the dismissal of the case against Lamberto Dungo and Rafael Echane for lack of sufficient evidence. As prayed

for, the Circuit Criminal Court dismissed the case against the accused concerned. Subsequently, the court rendered judgment against Rolando Galang and Eduardo Ariola, found said accused guilty beyond reasonable doubt of the crime of murder and sentenced them to suffer the penalty of death; to indemnify the heirs of the offended party the amount of P10,000.00; to pay moral damages in the amount of P5,000.00 and another P5,000.00 as exemplary damages; and to pay their proportionate share of the costs.

In this automatic review of the said decision of the Circuit Criminal Court, accused-appellants assigned as errors the appreciation of treachery, evident premeditation and recidivism and the consequent qualification of the crime to murder, pursuant to Article 218 of the Revised Penal Code as well as the application of the greater penalty of death, pursuant to Article 63 of the same code.

It is a well-established rule that a plea of guilty, besides being a mitigating circumstance, is a judicial confession of guilty - an admission of all the material facts alleged in the information, including the aggravating circumstances.[10]

However, the essence of a plea of guilty is that the accused admits his guilt freely, voluntarily and with full knowledge of the consequences and meaning of his act. If the accused does not clearly and fully understand the nature of the offense charged, if he is not advised as to the meaning and effect of the technical language so often used in complaints and informations in qualifying the acts constituting the offense, or if he does not clearly understand the consequences resulting from his admission of having committed the crime described in the precise technical manner and form in which it is charged, his plea of guilty should not be accepted, and, if accepted, it should not be held sufficient to sustain a conviction.[11]

The rationale of the rule is stated in this wise by Justice Carson:

"Our experience has taught us that it not infrequently happens that, upon arraignment, accused persons plead 'guilty' to the commission of the gravest offenses, qualified by marked aggravating circumstances, when in truth and in fact they intend merely to admit that they committed the act or acts charged in the complaint, and have no thought of admitting the technical charges of aggravating circumstances.

"It not infrequently happens that after a formal plea of 'guilty' it develops under the probe of the trial judge, or in the course of the statement of the accused made at the time of the entry of his plea, or upon the witness stand, that the accused, while admitting the commission of the acts charged in the information, believes or pretends to believe that these acts were committed under such circumstances as to exempt him in whole or in part from criminal liability. Clearly, a formal plea of guilty entered under such circumstances is not sufficient to sustain a conviction of the aggravated crime charged in the information."[12]

This is the situation in the case at bar for which accused-appellants entered a plea of guilty, their testimonies relative to the circumstances surrounding the commission of the crime failed to show that they had acted treacherously or that they had premeditated the killing of the victim.

In order that treachery may be appreciated, it is necessary to prove the manner in which the victim was attacked. Treachery can in no way be presumed but must be fully proven.[13]

Where there are merely indications that the attack was sudden and unexpected, but there are no precise data on this point, the circumstance of treachery cannot be taken into account.[14] In the case at bar, the prosecution presented no eye-witness account of the incident. The prison guards-investigators testified only on the results of their respective investigations, relying entirely on accused's sworn statements. On the other hand, the accused, although admitting that they stabbed the victim, did not totally affirm in court said sworn statements. Accused-appellant Eduardo Ariola testified as follows when asked about his sworn statement:

"Q.

I am showing to you a document wherein a signature appears, will you kindly identify the signature which I request to be marked as Exhibit F, for the prosecution?

A.

That is my signature.

Q.

And the thumbprint beside the signature is yours?

A.

My thumbmark, sir.

Q.

You signed your signature which you have identified before investigator Jesus Tomagan?

A.

Yes, sir.

Q.

Did you know Jesus Tomagan before you signed your statement?

A.

No, sir.

Q.

Did you have any quarrel before you signed this statement?

A.

When I was giving the statement we were not able to understand each other.

x x x x x x x x

Q.

This statement was given by you to investigator Jesus Tomagan on March 30, 1971 at 8:40 in the morning. Now will you kindly inform the Court whether or not you stated before Diosdado Aguilus, the administering officer that you signed your statement despite you not having understood one another?

A.

It was already there, that is why I did not change it anymore."[15]

Likewise, accused-appellant Rolando Galang testified as follows anent his sworn statement:

"Q.

I am showing to you Exhibit D. I am calling your attention to the signature above the typewritten name Rolando Galang, whose signature is that?

A.

My signature.

Q.

What about the thumbprint beside?

A.

My thumbprint.

Q.

You read this statement before you signed it?

A.

No more, sir, because I was confused then.

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Q.

Why?

A.

Because at that time I was about to be released."[16]

Moreover, there is nothing in their testimonies in court which shows that their mode of attack was sudden and unexpected and that it was deliberately chosen with a special view to the accomplishment of the act without risk to them. We note that neither of them participated in the forcible opening of the gate of Brigade 5-C, the place where they were incarcerated. Upon learning that it had been opened, they just joined their co-prisoners in rushing out. We quote hereunder the testimony of Eduardo Ariola on this point:

"Q.

Will you tell this Honorable Court why did you kill this Maximino Padilla?

A.

We did not intentionally kill him. There was a commotion outside our brigade and we were forced to run out when we saw people outside in commotion.

Q.

So you want to tell this Honorable Court that you did not plan with Rolando Galang the killing of this Maximino Padilla?

A.

Yes, sir.

Q.

How did you kill this Maximino Padilla?

A.

There was a commotion outside our brigade and then we met a person who was carrying something in his hands, I do not know what was it. And when I got hold of him I stabbed him twice."[17]

In the same vein was the testimony of Rolando Galang on this particular point:

"Q.

Was there a plan on your part, Lamberto Dungo, Rafael Echane, Eduardo Ariola to kill this Maximino Padilla?

A.

No, sir.

Q.

How did the incident happen if there was no plan among you?

A.

There was a commotion inside."[18]

The foregoing testimonies likewise belie the existence of evident premeditation. The essence of premeditation is that the execution of the criminal act must be preceded by cool thought and reflection upon the resolution to carry out the criminal intent during the space of time sufficient to arrive at a calm judgment.[19] Therefore, there must be proof of the following: (a) the time when the offender determined to commit the crime, (b) an act manifestly indicating that the culprit had clung to his determination, and (c) a sufficient interval of time between the determination and the execution of the crime to allow him to reflect upon the consequences of his act.[20] The foregoing essential elements do not affirmatively appear in the case at bar.

In two recently decided cases involving convicts in the New Bilibid Prison, namely, *People vs. Jose Avellana, et al.*, L-38345, March 28, 1980 and *People vs. Amador Atienza*, L-38571, March 31, 1980, the killing of a co-prisoner under circumstances similar to the case at bar, was held not to have been attended by treachery and evident premeditation. Each death was characterized as homicide.

Recidivism was properly appreciated, however, in this case. It was clearly shown in Eduardo Ariola's and Rolando Galang's testimonies that they were recidivists for at the time of the trial for this crime, they had been previously convicted by final judgment of another crime embraced in the same title of this Code. We quote hereunder their respective testimony before the lower court. Eduardo Ariola answered the prosecuting fiscal's queries as follows:

"Q.

You have been convicted by the CFI of Zambales and Manila for the crime of homicide, is that correct?

A.

That is true, sir.

Q.

How many persons have you killed?

A.

Five."[21]

Rolando Galang's testimony on this point is also as follows:

"x x x

Q.

You were convicted by the Circuit Criminal Court of Manila, were you?

A.

Yes, sir.

Q.

What is your sentence?

A.

Ten to seventeen years."^[22]

There is definitely no need as counsel for accused-appellants contend that the date of last conviction and release should be recited in the information. Such is necessary only in case of habitual delinquency.

As shown above, both accused are clearly and admittedly recidivists because at the time of their trial for the crime of murder, they have previously been convicted by final judgment of another crime (homicide) embraced in the same title of this Code. And since recidivism is a generic aggravating circumstance, it is offset by the mitigating circumstance of plea of guilt which We appreciate in favor of the two accused.

As herein discussed and declared, We agree that treachery and evident premeditation may not be taken against the accused, there being no evidence to warrant the same, although the said accused pleaded guilty to the information. This is in line with the ruling laid down in *People vs. Yturriaga*^[23] and cited in *People vs. Ong*^[24] which We quote:

"Although the confession was qualified and introduction of evidence became necessary, the qualification did not deny the defendants' guilt and, what is more, was subsequently fully justified. It was not the defendants' fault that aggravating circumstances were erroneously alleged in the information and mitigating circumstances omitted therefrom. If such qualification could deprive the accused of the benefit of plea of guilt, then the prosecution could nullify this mitigating circumstance by counteracting it with unfounded allegations of aggravating circumstances."

But undoubtedly applicable to the case at bar is Article 160, paragraph 1 of the Revised Penal Code which provides:

"Art. 160. Commission of another crime during service of penalty imposed for another previous offense.- Penalty.- Besides the provisions of rule 5 of article 62, any person who shall commit a felony after having been convicted by final judgment, before beginning to serve such sentence, or while serving the same, shall be punished by the maximum period of the penalty prescribed by law for the new felony. x x x"

We hereby rule that the proper crime chargeable against the accused is homicide and pursuant to Article 160, paragraph 1, R.P.C. above-quoted, each of the accused, Eduardo Ariola and Rolando Galang, should be sentenced to reclusion temporal in its maximum period.

Applying the Indeterminate Sentence Law, each of the accused is sentenced to an indeterminate penalty of twelve (12) years of prision mayor, as minimum, to twenty (20) years of reclusion temporal, as maximum.

WHEREFORE, the trial court's judgment is set aside. Accused-appellants Eduardo Ariola and Rolando Galang are convicted of homicide and sentenced to an indeterminate penalty of twelve (12) years of prision mayor, as

minimum, to twenty (20) years of reclusion temporal, as maximum, and to pay solidarily the heirs of Maximino Padilla an indemnity of twelve thousand pesos (P12,000.00). Costs de oficio.

SO ORDERED.

Teehankee, Acting C.J., Barredo, Makasiar, Aquino, Concepcion, Jr., Fernandez, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.
Fernando, C.J., abroad on official leave.

[1] TSN, February 7, 1974, p. 10.

[2] Ibid., p. 11.

[3] Ibid., February 26, 1974, p. 19.

[4] Ibid., p. 28.

[5] Ibid., pp. 21, 23 & 32.

[6] Ibid., p. 24.

[7] Ibid., pp. 6, 14.

[8] Ibid., pp. 3, 5.

[9] Ibid., pp. 12, 14.

[10] People vs. Retania, L-34841, Jan. 22, 1980; People vs. Arpa, L-26789, April 25, 1969; People vs. Espejo, et al., L-27708, Dec. 19, 1970; People vs. Roldan, L-22030, May 29, 1968; People v. Boyles, L-15308, May 29, 1964; People vs. Parete, L-15515, April 29, 1961; People vs. Yamson, et al., L-14189, Oct. 25, 1960.

[11] People vs. Duaban, 92 SCRA 743, L-31912, Aug. 24, 1979, citing U.S. vs. Jamad, 37 Phil. 305, 313-14.

[12] Ibid.

[13] People vs. Asilo, 4 Phil. 175; People vs. Arciga, 2 Phil. 110; People vs. Durante, 53 Phil. 363.

[14] Aquino, The Revised Penal Code, 1961 ed., vol. 1, p. 353 citing Trero, G.R. No. 44358, 1936, IV L.J. 488.

[15] TSN, February 26, 1974, pp. 12-14.

[16] Ibid., p. 28.

[17] Ibid., pp. 3-4.

[18] Ibid., p. 21.

[19] People vs. Durante, 53 Phil. 363.

[20] People vs. Lim, 71 SCRA 249; People vs. Bodoso, 60 SCRA 61; People vs. Manangan, 59 SCRA 31; People vs. Ardisa, 55 SCRA 245; People vs. Diva, et al., 23 SCRA 332; People vs. Beralde, L-32832, June 29, 1979; People vs. Corachea, L-30101, July 16, 1979.

[21] TSN, February 26, 1974, p. 6.

[22] Ibid., p. 19.

[23] 86 Phil. 534, 539.

[24] 62 SCRA 174.

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