

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
DONATO CRUZ Y MALEJANA, ACCUSED-APPELLANT.***G.R. No. 127789. April 02, 2002*

Ponente: MELO, J.

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This case, involving as it does the gruesome death of a mother and her 5-year old daughter, once again underscores the evil that the drug menace poses to society.

The facts established by the prosecution, may be synthesized as follows:

On September 12, 1996, Renato Robles, the husband of Laura Robles and the father of Mary Lauren “Lara” Robles, arrived home from work at about 7:30 o’clock in the evening. Renato found the gate of his house padlocked on the inside and the house in total darkness. Thinking that his wife and daughter were just sleeping inside the house, Renato rang the doorbell several times but no one responded. Now alarmed, Renato went to the neighboring store to ask for assistance from the store owner, Mamerto Cesario. He then returned to his house, jumped over the fence, opened the gate and passed through the screened off portion of the kitchen to gain entry to the house.

Once inside the house, Renato switched on the lights and was greeted by a horrific scene — the cold and dead body of his wife lying prostrate on the floor bathed in her own blood. Renato rushed to the bedroom to check on his 5-year old daughter, Lara, only to find her cold and dead as well. Renato immediately called his mother-in-law and sister-in-law, and told them what happened. Afterwards, he went back to the bedroom, where he discovered that their cabinet had been ransacked. Among the items missing were a Minolta camera worth P30,000.00, a wedding ring worth P4,000.00, P8,000.00 in cash, as well as an undetermined amount of US dollars.

As testified to by Dr. Emmanuel Arañas, a medico-legal officer of the PNP Crime Laboratory, Laura and Lara died of multiple stab wounds. His testimony was capsulized by the State in this wise:

Dr. Arañas testified that the mother, Laura Robles, sustained 43 incise and stab wounds (ibid, p. 31). The stab wounds were on the left side of the head around the left ear and most are on the trunk, specifically at the back (ibid). The back of the victim, to be exact, sustained 19 stab wounds (ibid, p. 34). One of the most fatal wounds in the front portion of the body of the victim is wound no. 10 because it pierced her heart and that alone could have caused the spontaneous death of the victim (ibid, p. 33). There are eight (8) fatal stab wounds at the back of the victim which penetrated the right lung, left lung and the liver.

Dr. Arañas also testified that the five-year old victim, Lauren “Lara” Robles, sustained four (4) stab wounds, three (3) of which are fatal, and multiple abrasions on the neck (ibid, p. 39). Stab wound no. 2 pierced the heart of Lara while stab wounds nos. 4 and 5 pierced the left lung (ibid).

(pp. 130-131, Rollo.)

For the killing of Laura and Lara Robles, herein appellant Donato Cruz y Malejana was arrested by police

authorities and subsequently charged before the Regional Trial Court of the National Capital Judicial Region (Branch 63, Pasig City) with two counts of murder. In addition, appellant was also charged with theft for stealing a camera and cash. The three Informations read as follows:

For the death of Laura Robles

The prosecution, through the undersigned Public prosecutor, charges Donato Cruz y Malejana with the crime of murder, committed as follows:

On or about September 12, 1996 in Pasig City and within the jurisdiction of this Honorable Court, the accused, with intent to kill, and with abuse of superior strength, treachery and cruelty, did then and there wilfully, unlawfully and feloniously attack, assault and stab Laura Robles y Santos on her trunk with a bladed weapon, thereby inflicting upon said Laura Robles stab wounds, which directly caused her death.

Contrary to law.

For the death of Lauren “Lara” Robles

The prosecution, through the undersigned Public prosecutor, charges Donato Cruz y Malejana with the crime of murder, committed as follows:

On or about September 12, 1996 in Pasig City and within the jurisdiction of this Honorable Court, the accused, with intent to kill, and with abuse of superior strength, treachery and cruelty, did then and there wilfully, unlawfully and feloniously attack, assault and stab Lauren “Lara” Robles y Santos, five (5) year old, on her chest with a bladed weapon, thereby inflicting upon said Lauren “Lara” Robles stab wounds, which directly caused her death.

Contrary to law.

For Theft

The prosecution, through the undersigned Public Prosecutor, charges Donato Cruz y Malejana with the crime of theft, committed as follows:

On or about September 12, 1996 in Pasig City and within the jurisdiction of this Honorable Court, the accused, with intent to gain and without the knowledge and consent of the owner, did then and there wilfully, unlawfully and feloniously take, steal and carry away the following items:

One (1) Minolta Camera P30,000.00
Cash money P 8,000.00
Dollars with an undetermined amount

all in the total amount of more or less P38,000.00, belonging to Renato M. Robles, to the damage and prejudice of the owner.

Contrary to law.

(pp. 47-48, Rollo.)

However, even before the above-mentioned informations could be filed in court, appellant, in a sworn statement before the investigating police authorities (p. 96, Annex “B”, Record), confessed to the crimes. This confession was made with the assistance of counsel in the presence of appellant’s wife and mother. Appellant admitted that he was high on drugs when he committed the killings. His confession, as summarized by the Office of the Prosecutor, is as follows:

In the afternoon of September 12, 1996, respondent (herein appellant) went to visit Ariel Tolentino at his house

located at Tierra Verde, Santolan, Pasig City. Before he went to his friend's house, he sniffed shabu and smoked a stick of marijuana. He also drank a bottle of beer. Proceeding to his friend's house, however, he was not able to find him.

When respondent (herein appellant) was going out of the subdivision, he suddenly felt something unusual and found himself inside the gate of the house of the complainant. He then sat on a sofa near the kitchen. While seated on the sofa, Laura saw respondent and she became hysterical and started shouting. Respondent was rattled. Because he was feeling something unusual at that time, and thinking that he will be assaulted by Laura, respondent went inside the house, got hold of a pointed object and stabbed Laura a countless times. While he was stabbing Laura, he saw Lara coming out of a room and when she saw respondent stabbing her mother, she went back to the room where respondent followed and stabbed her with the same pointed object.

(pp. 10-11, Original Records.)

During the trial, the defense waived its right to present any evidence. Appellant only moved for the admission of the following mitigating circumstances: (1) voluntary surrender, (2) having committed the offense under the influence of drugs, and (3) plea of guilty. The trial court admitted the plea of guilty and disregarded the other two, there being no evidence to support the same.

On December 5, 1996, the trial court rendered judgment, disposing:

WHEREFORE, premises considered, this Court finds accused, Donato Cruz y Malejana, guilty beyond reasonable doubt as principal:

a) In Criminal Case No. 110854-H for Homicide for the killing of Laura Robles and considering the mitigating circumstance of plea of guilty in his favor and there being no aggravating circumstances on record, this Court imposes upon him the penalty of imprisonment for twelve (12) years and one (1) day to fourteen (14) years and eight (8) months of reclusion temporal and to indemnify the heir of said victim the sum of P50,000.00.

b) In Criminal Case No. 110853-H for Murder for the killing of Lauren Robles and considering the two (2) generic aggravating circumstance against accused with only the mitigating circumstance of plea of guilty in his favor, this Court imposes upon him, the supreme penalty of Death, to be implemented as provided for by law and to indemnify the heir of said victim the sum of P50,000.00.

c) Under Criminal Case No. 110855 for theft, this Court imposes upon him the penalty of imprisonment for eight (8) years, eight (8) months and one (1) day to eleven (11) years of prision mayor and to restitute to Renato Robles the sum of P8,000.00.

This Court also imposes upon the accused to pay Renato Robles moral damages in the sum of P1,000,000.00, and to pay the costs.

SO ORDERED.

(pp. 118-119, Original Record)

In this automatic review of the decision of the trial court, appellant raises the following errors allegedly committed by the trial court, to wit:

I

THE COURT A QUO ERRED IN FINDING THAT THE GENERIC AGGRAVATING CIRCUMSTANCES OF TREACHERY AND ABUSE OF SUPERIOR STRENGTH WERE ATTENDANT DURING THE MURDER OF LAUREN ROBLES DESPITE THE FACT THAT ABUSE OF SUPERIOR STRENGTH IS ALREADY ABSORBED BY TREACHERY WHICH QUALIFIES THE KILLING TO MURDER.

II

THE COURT A QUO ERRED LIKEWISE IN IMPOSING THE DEATH PENALTY ON THE APPELLANT CONSIDERING THE PRESENCE OF A SINGLE MITIGATING CIRCUMSTANCE.

III

NOT WITSTANDING THIS, THE COURT A QUO COMMITTED REVERSIBLE ERROR WHEN IT CONVICTED THE APPELLANT OF ONE COUNT EACH OF HOMICIDE, MURDER AND THEFT DESPITE THE FACT THAT THE PROSECUTION FAILED TO ESTABLISH HIS GUILT FOR THE SAME BEYOND REASONABLE DOUBT, AND HIS PLEAS OF GUILTY THERETO ARE IMPROVIDENT.

IV

BE THAT AS IT MAY, THE COURT A QUO ERRONEOUSLY CONVICTED THE APPELLANT OF ONE COUNT EACH OF HOMICIDE, MURDER AND THEFT ALTHOUGH HE SHOULD HAVE BEEN PROPERLY CHARGED WITH THE CRIME OF ROBBERY WITH HOMICIDE.

(pp. 92-93, Rollo.)

The petition is partially meritorious.

The defense correctly argues that appellant's pleas of guilty to the charges against him were improvident and it was error for the trial court to have appreciated the same. Time and again, we have stated that a plea of guilty is improvidently accepted where no effort was even made to explain to the accused that a plea of guilty to an information for a capital offense, attended by an aggravating circumstance, may result in the imposition of the death penalty (*People vs. Derilo*, 271 SCRA 136 [1997]). We have scrupulously gone over the record of the proceedings at the trial court level and nowhere is it shown that the court a quo administered a searching inquiry as to the voluntariness of appellant's plea and his full knowledge of the consequences and meaning of the same. Not having been properly made, we cannot now admit appellant's plea of guilty as a basis for his conviction.

The foregoing notwithstanding, in *People vs. Albert* (251 SCRA 136 [1996]), the Court declared that a decision based on an irregular plea may nevertheless be upheld where the judgment is supported by other adequate evidence on record. Here, appellant made an extrajudicial confession before the investigating authorities, duly assisted by counsel, admitting authorship of the crimes (p. 96, Annex "B", Record). Moreover, a prosecution witness saw him jump over the fence of the Robles' residence at 4 p.m. on the day of the incident (p. 11, Record). Equally damning, the victim's Minolta camera that was stolen on the day of the incident was recovered from the accused (*id.*). All these convince the Court that appellant is, indeed, guilty as charged. Thus, notwithstanding his improvident plea, appellant cannot escape responsibility for a crime that he had confessed to having authored himself.

In Criminal Case No. 110853-H for the death of 5-year old Lara Robles, the Court agrees with the defense and the Office of the Solicitor General that the aggravating circumstance of "abuse of superior strength" attendant to the killing of Lara was absorbed by treachery (*People vs. Panganiban*, 241 SCRA 91 [1995]; *People vs. Abitona*, 240 SCRA 335 [1995]). Well-settled is the rule that the killing by an adult of a minor child is treacherous (see *People vs. Abuyan*, 213 SCRA 569 [1993]). Treachery, in turn, qualified the killing of Lara to murder. The imposable penalty for murder is reclusion perpetua to death (Article 248, Revised Penal Code). Since the aggravating circumstance of "abuse of superior strength" is deemed absorbed in treachery, there would no longer be any aggravating or mitigating circumstance present in the murder of Lara Robles. Absent any aggravating or mitigating circumstance, the imposable penalty for the killing of Lara would be reclusion perpetua, and not death,

as erroneously held by the trial court.

Appellant likewise argues that he should have been charged with the crime of robbery with homicide instead of two (2) counts of murder and one (1) count of theft. We do not agree. The special complex crime of robbery with homicide is primarily a crime against property, and not against persons, homicide being a mere incident of the robbery with the latter being the main purpose and object of the criminal (People vs. Navales, 266 SCRA 569 [1997]). In the case at bar, the evidence on record shows that appellant stole the camera and cash only as an afterthought. His primary purpose was to kill Laura and her 5-year old daughter, Lara, after he panicked. Hence, the prosecution was correct when it did not charge appellant with the special complex crime of robbery with homicide.

WHEREFORE, premises considered, the decision under review finding appellant DONATO CRUZ y MALEJANA guilty beyond reasonable doubt is hereby AFFIRMED with the following modifications: (1) The proper penalty in Criminal Case No. 110853 for the Murder of 5-year old Lauren “Lara” Robles should be Reclusion Perpetua instead of Death; (2) In Criminal Case No. 110854-H for Homicide for the killing of Laura Robles, there being no mitigating and aggravating circumstance and applying the Indeterminate Sentence Law, we hereby impose on appellant the penalty of 10 years of prision mayor as minimum, and 17 years and 4 months of reclusion temporal as maximum; and (3) The award of moral damages in the amount of P1,000,000.00 is hereby reduced to P100,000.00. The penalty in Criminal Case No. 110855 for Theft sentencing accused appellant to imprisonment for 8 years, 8 months and 1 day to 11 years of prision mayor, and to restitute to Renato Robles the sum of P8,000.00 is hereby upheld.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Kapunan, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and Carpio, JJ., concur.

Puno and Vitug, JJ., abroad on official business.

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