

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FREDDIE MURILLO, APPELLANT.

G.R. No. 134583. July 14, 2004

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before this Court on automatic review is the decision[1] rendered by the Regional Trial Court, Branch 259, Parañaque, dated June 1, 1998, finding appellant Freddie Murillo guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of death.

The Information charges appellant Freddie Murillo as follows:

That on or about the 6[th] day of June, 1997, in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab one Paz Abiera with a bladed weapon on her chest, thereby inflicting upon her serious and mortal wounds which directly caused her death.

With the aggravating circumstances of cruelty and abuse of superior strength.

CONTRARY TO LAW.[2]

Upon arraignment, appellant, with the assistance of Atty. Dante O. Garin of the Public Attorney's Office, pleaded guilty to the charge.[3] Trial then ensued.

The prosecution presented Sancho Ferreras, brother of the victim; barangay tanod Ramon Saraos; SPO2 Angel Nieves of the Parañaque Police; and NBI Medico-legal Officer Ludivino Lagat. They established the following facts:

On June 12, 1997, SPO2 Nieves received a report that Paz Abiera was missing.[4] The following day, Ramon Saraos, a barangay tanod of Cul de Sac Rotonda, Sun Valley, Parañaque received a request from Sarah Murillo, mother of herein appellant and Arlan Murillo, to investigate a foul smell emanating from the house of Paz Abiera. Said house was being shared by Paz and her two nephews, appellant and Arlan. When Ramon asked appellant what happened to his aunt, the latter answered that Paz had been missing since June 7, 1997 and that he earlier reported the incident to the police. Ramon then asked permission from appellant to look inside the house and there he noticed blood stains at the foot of the house. Ramon also noticed that the foul odor was coming from inside. He asked assistance from the Parañaque Police and SPO2 Nieves responded. When SPO2 Nieves arrived, they removed the toilet bowl and opened the septic tank where they recovered parts of human arms and legs.[5] SPO2 Nieves questioned Freddie and Arlan, who both denied any involvement in the killing of Paz. SPO2 Nieves later ordered that the two brothers be brought to Block 6. After about 30 minutes, SPO2 Nieves received a call from the radio saying that Freddie Murillo already admitted to having killed his aunt Paz Aberia using a knife. Freddie then showed them where he threw Paz's severed head. They were able to locate a red and white striped plastic bag

which contained the victim's head at a canal near the service road of the South Super Highway. They also found a blood stained bed sheet, reading glasses and a stone with blood stains in the house of the victim.[6]

They recovered a total of eighty pieces of body parts that were all in an advanced state of decomposition. An examination conducted on the body parts showed that there were stab wounds that penetrated the lungs, the intestines and the liver. The examination also showed that it is possible that the instrument used in killing and decapitating the victim was a knife.[7]

As a hostile witness of the prosecution, appellant testified as follows: On June 6, 1997, at around 2:30 in the afternoon, his aunt, Paz Abiera scolded and slapped him for wasting electricity after she caught him watching television at the second floor of their house. His vision darkened ("nagdilim na po ang pangingin ko") due to the repeated times that Paz scolded and uttered hurtful words to him. When he saw a knife, he took it and stabbed her on the chest. He dragged her body from the second floor to the comfort room downstairs where he chopped her body into several pieces using the same knife. After doing so, he removed the toilet bowl and dumped the body parts into the septic tank. He brought the severed head to the highway along the service road near Astra. Later, he asked help from his brother Arlan in cementing a new toilet bowl over the septic tank. His brother Arlan did not know that he killed their aunt. It took him a while to confess his guilt because he was afraid that the police might hurt him. While his mother, Sarah Murillo, often visited him and Arlan at their aunt's house, he did not tell his mother about what he did because he was afraid.[8]

After the testimony of appellant, the prosecution rested its case. On June 1, 1998, the trial court rendered its decision with the following findings:

Assessing the evidence on record, particularly considering the admission made in open Court by the herein accused despite having been duly informed by his counsel of the consequences of his testimony, this Court finds without an iota of doubt that he alone committed the abominable act of killing his aunt and later on hideously dismembering her body in his attempt to hide the corpus of his crime. Truly unspeakable is the manner by which accused Murillo disposed of the body of the victim first by cutting her body parts and hiding them in a septic tank and then throwing away the victim's head in a canal or drainage along the service road near the South Superhighway.

...

The information charges the herein accused for committing the crime of Murder with the qualifying circumstances of treachery (alevosia) and evident premeditation and with cruelty and abuse of superior strength as aggravating circumstances.

On the aggravating circumstances of abuse of superior strength, the mere fact that the assailant is a male person whereas the victim is a woman does not ipso fact mean that such circumstance can be appreciated by the Court unless perhaps if it was shown that the attacker was a Hulk Hogan and the victim is a frail reed thin woman. Cruelty likewise cannot be inferred in the case at bar from the fact that the body of the deceased was dismembered in the absence of proof that this was done while the victim was still alive. The object sought to be attained by Murillo in this case may well have been to make the recovery of the body of the victim absolutely impossible.

In regard to the qualifying circumstances of treachery or alevosia and evident premeditation, the fact that no commotion, no unusual sounds or noises were even heard or noticed in the vicinity at the time of the stabbing of the victim would indicate that the accused planned the killing and made sure that in its execution, there would be no risk to himself arising from any defense which said victim might make. Considering the rule however, that, if two or more possible qualifying circumstances were alleged and proven or in the case obtaining at the bar, only one would qualify the offense to Murder and the other would be generic.[9]

The dispositive portion of the decision reads:

WHEREFORE, premises considered, finding accused FREDDIE MURILLO, GUILTY beyond reasonable doubt of the crime of Murder as defined and penalized under Art. 248 of the Revised Penal Code with the qualifying and/or generic aggravating circumstances of treachery or alevosia and or evident premeditation, this Court hereby sentences him to the penalty of DEATH and to suffer the accessory penalties provided by law specifically Art. 40 of the Revised Penal Code. For the civil liabilities, he is further condemned to indemnify the heirs of the herein victim Paz Abiera the amount of P50,000.00 in line with existing jurisprudence; P27,000.00 for funeral expenses; P50,000.00 for moral damages and P50,000.00 for exemplary damages.

The Clerk of Court is also directed to prepare the Mittimus for the immediate transfer of accused Freddie Murillo from the Parañaque City Jail to the Bureau of Correction in Muntinlupa City and finally to forward all the records of this case to the Supreme Court for automatic review in accordance with Sec. 9, Rule 122 of the Rules of Court and Art. 47 of the Revised Penal Code as amended by R.A. 7659.

SO ORDERED.[10]

Hence this automatic review pursuant to Article 47 of the Revised Penal Code, as amended.

In his brief, appellant claims that the court a quo gravely erred:

I

...IN CONVICTING (HIM) OF THE CRIME OF MURDER AND SENTENCING HIM TO DEATH ON THE BASIS OF HIS IMPROVIDENT PLEA OF GUILTY; and

II

...IN CONSIDERING THE CIRCUMSTANCES OF TREACHERY AND EVIDENT PREMEDITATION IN QUALIFYING THE KILLING TO MURDER NOTWITHSTANDING THAT THE PROSECUTION FAILED TO ESTABLISH THE SAME.[11]

Appellant argues: His plea of guilt was improvident since there was no indication that he fully understood that the qualifying circumstances charged in the information would result to the penalty of death. He only admitted the killing but not the circumstances of treachery and evident premeditation. There could be no evident premeditation since he stabbed Paz only after losing his senses. There could also be no treachery since it cannot be determined with certainty whether or not the wounds inflicted on the victim were made before or after her death. The aggravating circumstance of “outraging or scoffing at his person or corpse” cannot be appreciated in this case since it was not alleged in the Information.[12]

The Solicitor General points out that there was treachery since the appellant himself admitted that when his aunt scolded him, he took a knife and suddenly stabbed her in the chest;[13] and that the trial court did not err in finding the presence of evident premeditation.[14]

In his Reply, appellant adds that the observations made by the court a quo are based merely on inferences that are unsubstantiated by concrete evidence.[15]

After reviewing the entire records of the case, we find that there was an improvident plea of guilt that warrants the remand of the case to the trial court.

Rule 116 of the Rules on Criminal Procedure provides:

SEC. 3. Plea of guilty to capital offense; reception of evidence.--- When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and shall require the prosecution to prove his guilt and the precise degree of

culpability. The accused may also present evidence in his behalf.

The reason for this rule is that courts must necessarily proceed with more care where the possible punishment is in its severest form – death – for the reason that the execution of such sentence is irrevocable. Experience has shown that innocent persons have at times pleaded guilty in the hope of a lenient treatment, or upon bad advice or because of promises of the authorities or parties of a lighter penalty should he admit guilt or express remorse. An accused might be admitting his guilt before the court and thus forfeit his life and liberty without having fully understood the meaning, significance and consequences of his plea. The judge therefore has the duty to ensure that the accused does not suffer by reason of mistaken impressions.[16] Requiring the trial court to take further evidence would also aid this Court on appellate review in evaluating the propriety or impropriety of the plea.[17]

Under the said rule, three things are required from the trial court when a plea of guilty to a capital offense is entered: (1) the court must conduct a searching inquiry into the voluntariness of the plea and the accused's full comprehension of the consequences thereof; (2) the court must require the prosecution to present evidence to prove the guilt of the accused and the precise degree of his culpability; and (3) the court must ask the accused if he desires to present evidence on his behalf and allow him to do so if he desires.[18]

The searching inquiry referred to here means more than just informing cursorily the accused that he faces jail term.[19] The inquiry must expound on the events that actually took place during the arraignment, the words spoken and the warnings given, with special attention to the age of the accused, his educational attainment and socio-economic status as well as the manner of his arrest and detention, the provision of counsel in his behalf during the custodial and preliminary investigations, and the opportunity of his defense counsel to confer with him. The trial court must also explain to the accused the essential elements of the crime he is charged with as well as its respective penalties and civil liabilities.[20] The exact length of imprisonment under the law and the certainty that he will serve time at the national penitentiary or a penal colony must be fully explained to the accused. The court must also explain to the accused that once convicted, he could be meted the death penalty and that it is a single and indivisible penalty that will be imposed regardless of any mitigating circumstance that may have attended the commission of the felony.[21] The court must also direct a series of questions to the defense counsel to determine whether he has conferred with the accused and has completely explained to the latter the meaning of a plea of guilty. This formula is mandatory and absent any showing that it has been followed, a searching inquiry cannot be said to have been undertaken.[22]

In *People vs. Pastor*,[23] the Court explained that while there is no definite and concrete rule as to how a trial judge must conduct a “searching inquiry”, the following guidelines should nevertheless be observed:

- Ascertain from the accused himself (a) how he was brought into the custody of the law; (b) whether he had the assistance of a competent counsel during the custodial and preliminary investigations; and (c) under what conditions he was detained and interrogated during the investigations. This is intended to rule out the possibility that the accused has been coerced or placed under a state of duress either by actual threats of physical harm coming from malevolent quarters or simply because of the judge's intimidating robes.
- Ask the defense counsel a series of questions as to whether he had conferred with, and completely explained to, the accused the meaning and consequences of a plea of guilty.
- Elicit information about the personality profile of the accused, such as his age, socio-economic status, and educational background, which may serve as a trustworthy index of his capacity to give a free and informed plea of guilty.
- Inform the accused the exact length of imprisonment or nature of the penalty under the law and the certainty that he will serve such sentence. For not infrequently, an accused pleads guilty in the hope of a lenient

treatment or upon bad advice or because of promises of the authorities or parties of a lighter penalty should he admit guilt or express remorse. It is the duty of the judge to ensure that the accused does not labor under these mistaken impressions because a plea of guilty carries with it not only the admission of authorship of the crime proper but also of the aggravating circumstances attending it, that increase punishment.

- Inquire if the accused knows the crime with which he is charged and fully explain to him the elements of the crime which is the basis of his indictment. Failure of the court to do so would constitute a violation of his fundamental right to be informed of the precise nature of the accusation against him and a denial of his right to due process.

- All questions posed to the accused should be in a language known and understood by the latter.

- The trial judge must satisfy himself that the accused in pleading guilty, is truly guilty. The accused must be required to narrate the tragedy or reenact the crime or furnish its missing details.[24]

In the case at bar, records do not show that a searching inquiry was ever conducted by the judge when appellant entered his plea of guilty. The Order dated July 14, 1997 simply reads as follows:

Accused, when arraigned, with the assistance of Atty. Dante O Garin of the Public Attorney's Office, pleaded GUILTY to the crime charged in the information.

Let this case be set for hearing on July 28, 1997 at 8:30 o'clock in the morning.

Let subpoena be issued to all prosecution witnesses for the next scheduled hearing.

SO ORDERED.[25]

While we have held that the absence of the transcript of stenographic notes of the proceedings during the arraignment does not make the procedure flawed, the minutes of the proceedings, however, must indubitably show that the judge has substantially complied with the requirements of Rule 116, Sec. 3.[26] No less than a man's life is at stake in this case. Whatever appellant might have said to show that he was waiving his defense voluntarily and with full knowledge of the consequences of his plea should have been made of record.[27] Here, there is no proof at all that the judge ever conducted any searching inquiry.

The trial court mentioned in its decision the importance of Section 3, Rule 116, of the Rules of Court in cases of pleas of guilt, however, it failed to show compliance therewith. Pertinent portions of the decision read:

Under Sec. 3, Rule 116 of the Rules of Court, when the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence in his behalf.

In *People vs. Salvador*, 224 SCRA 819, to be liable for murder, an accused must be proven to have committed the killing of another person under the attendant circumstances specified in Article 248 of the Revised Penal Code.

In *People vs. Jocson*, 163 SCRA 525, Accused's plea of guilty which was freely and voluntarily made added to the evidence adduced by the prosecution sufficiently established his culpability.

With the plea of guilty, appellant had admitted the commission of the unlawful act. Hence, the presumption is that the act was done with an unlawful intent unless accused rebuts this presumption. *People vs. Verona*, 163 SCRA 614.

Assessing the evidence on record, particularly considering the admission made in open Court by the herein accused despite having been duly informed by his counsel of the consequences of his testimony, this Court

finds without an iota of doubt that he alone committed the abominable act of killing his aunt and later on hideously dismembering her body in his attempt to hide the corpus of his crime. Truly unspeakable is the manner by which accused Murillo disposed of the body of the victim first by cutting her body parts and hiding them in a septic tank and then throwing away the victim's head in a canal or drainage along the service road near the South Superhighway.[28]

The transcript of how the defense counsel, Atty. Dante O. Garin of the Public Attorney's Office, supposedly informed the accused of his rights also merely read as follows:

ATTY. GARIN:

Your Honor please the accused already pleaded guilty to the offense charged and the only reason we have to the motion of presenting evidence is that the guilt of the accused must be proven by the prosecution notwithstanding the plea of guilty entered into during his arraignment. This representation your Honor finds it necessary to inform the accused of his constitutional rights. And with the Court's permission, before he will testify as hostile witness, I would like to inform the accused for the record.

Q. Mr. Freddie Murillo, ikaw ang akusado dito sa kasong ito. Ang proseso natin ay

kung sino man ang nagbibintang ay siyang dapat magpatunay ng kasalanang ibinibintang. Sa sitwasyong ito, ikaw ay pinagbibintangan ng kasong murder. At ang ebidensiyang gagamitin ay dapat manggagaling sa kung sino man ang nagbibintang sa iyo na ikaw ay nakapatay ng tao. Ngayon ikaw ay uupo ngayon sa silyang iyan para magsalita tungkol doon sa pangyayari. Meron kang karapatan na hindi pumayag na magsalita ng ano'ng bagay na maaaring ikapahamak mo. Maaari mong hindi sagutin iyong tanong, maaring hindi ka umupo ryan, nasa sa iyo ang desisyon. Naiintindihan mo ba?

A. Opo.

Q. Ngayong naipaliwanag ko na sa iyo ikaw ba ay handang magsalita tungkol sa kasong ito?

A. Opo.

That's all for the witness, your Honor.[29]

Clearly, the proceedings taken by the trial court was short of being satisfactory. Appellant was never asked about the circumstances of his arrest and detention, not even when SPO2 Nieves himself in his testimony mentioned that he ordered that the two brothers be brought to "Block 6" for questioning without the presence of counsel. Where or what kind of place "Block 6" is, was not even explained by the witness neither did the court nor the defense counsel ask the witness to clarify said point. The Court also did not ask appellant about the circumstances of his arraignment as well as his age and educational attainment. He was also neither apprised of the consequences of his plea nor was it explained to him that the penalty imposable for the crime attended by its qualifying circumstances as alleged in the Information is death regardless of the presence of mitigating circumstances.

The failure of the defense counsel to faithfully protect the rights of appellant also cannot go unnoticed. Records show that defense counsel Atty. Dante O. Garin, never cross-examined three of the four witnesses of the prosecution, namely Sancho Fereras,[30] Ramon Saraos,[31] and Dr. Ludivino Lagat.[32] The only prosecution witness he cross-examined was SPO2 Nieves to whom he asked four questions pertaining only as to how the police came to the conclusion that the body parts belong to Paz Abiera.[33] Apart from these, no other questions were ever offered.

There is also no record anywhere that the defense counsel presented evidence for the accused nor that the trial

court even inform him of his right to do so if he so desires.

For these reasons, it cannot be said that the appellant's rights were observed in the proceedings a quo.

It is well established that the due process requirement is part of a person's basic rights and is not a mere formality that may be dispensed with or performed perfunctorily. An accused needs the aid of counsel lest he be the victim of overzealous prosecutors, of the law's complexity or of his own ignorance and bewilderment. Indeed, the right to counsel springs from the fundamental principle of due process.[34] The right to counsel, however, means more than just the presence of a lawyer in the courtroom or the mere propounding of standard questions and objections. The right to counsel means that the accused is sufficiently accorded legal assistance extended by a counsel who commits himself to the cause for the defense and acts accordingly. This right necessitates an active involvement by the lawyer in the proceedings, particularly at the trial of the case, his bearing constantly in mind of the basic rights of the accused, his being well-versed on the case and his knowing the fundamental procedures, essential laws and existing jurisprudence. Indeed, the right of an accused to counsel finds meaning only in the performance by the lawyer of his sworn duty of fidelity to his client and an efficient and truly decisive legal assistance which is not just a simple perfunctory representation.[35]

Atty. Garin, had the duty to defend his client and protect his rights, no matter how guilty or evil he perceives appellant to be. The performance of this duty was all the more imperative since the life of appellant hangs in the balance. As a defense counsel, he should have performed his duty with all the zeal and vigor at his command to protect and safeguard appellant's fundamental rights.[36]

While our jurisdiction does not subscribe to a per se rule that once a plea of guilty is found improvidently he is at once entitled to a remand, the circumstances of this case warrant that a remand to the trial court be made. To warrant a remand of the criminal case, the Court has held that it must be shown that as a result of such irregularity there was inadequate representation of facts by either the prosecution or the defense during the trial.[37] Where the improvident plea of guilty was followed by an abbreviated proceeding with practically no role at all played by the defense, we have ruled that this procedure was just too meager to accept as being the standard constitutional due process at work enough to forfeit a human life.[38] What justifies the remand of the criminal case to the trial court is the unfairness or complete miscarriage of justice in the handling of the proceedings a quo as occasioned by the improvident plea of guilt.[39] In this case, apart from the testimony of appellant, the prosecution does not have any other evidence to hold him liable for the crime charged.

In view of the foregoing, we find that it is imperative to remand the case for the proper arraignment and trial of the accused, considering not only the accused's improvident plea of guilt but also his lawyer's neglect in representing his cause.

WHEREFORE, the decision dated June 1, 1998 of the Regional Trial Court, Branch 259, Parañaque, finding appellant Freddie Murillo guilty beyond reasonable doubt of Murder in Criminal Case No. 97-502 is ANNULLED and SET ASIDE. Let the records be REMANDED to the court of origin for further proceedings as indicated in the text of herein decision, to be conducted with deliberate speed in accordance with this decision.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

[1] Penned by Judge Zosimo V. Escano.

- [2] Rollo, p. 5.
- [3] Records, p. 24.
- [4] TSN, SPO2 Angel Nieves, November 17, 1997, p. 3.
- [5] TSN, Ramon Saraos, August 12, 1998, pp. 11-18.
- [6] TSN, SPO2 Angel Nieves, November 17, 1997, pp. 3-31.
- [7] TSN, Dr. Ludivino Lagat, December 8, 1997, pp. 6-9.
- [8] TSN, April 15, 1998, pp. 6-20.
- [9] Id., pp. 19-20.
- [10] Rollo, p. 21.
- [11] Id., p. 34.
- [12] Id., pp. 41-44.
- [13] Id., p. 72.
- [14] Id., p. 75.
- [15] Id., p. 85.
- [16] People vs. Ibañez, G.R. No. 133923-24, July 30, 2003.
- [17] People vs. Pastor, G.R. No. 140208, March 12, 2002, 379 SCRA 181, 189.
- [18] People vs. Ibañez, supra note 16, People vs. Nadera, G.R. Nos. 131384-87, February 2, 2000, 324 SCRA 490, 501; People vs. Principe, G.R. No. 135862, May 2, 2002, 381 SCRA 642, 648.
- [19] People vs. Ibañez, supra note 16.
- [20] People vs. Molina, G.R. Nos. 141129-33, December 14, 2001, 372 SCRA 378, 386-387.
- [21] People vs. Ibañez, supra note 16.
- [22] People vs. Molina, supra, note 20, p. 387.
- [23] Supra, note 17.
- [24] Id., pp. 189-190.
- [25] Records, p. 24.
- [26] People vs. Magat, G.R. No. 130026, May 31, 2000, 332 SCRA 517, 527.
- [27] People vs. Benavidez, G.R. Nos. 142372-74, September 17, 2002.
- [28] Rollo, pp. 18-19.
- [29] TNS, Freddie Murillo, April 15, 1998, pp. 367-368.
- [30] TSN, August 12, 1997, p. 11.
- [31] Id., p. 24.

[32] TSN, December 8, 1997, p. 9.

[33] TSN, November 17, 1997, pp. 33-34.

[34] *People vs. Bernas*, G.R. No. 120420, April 21, 1999, 306 SCRA 135, 147.

[35] *Id.*, supra, pp. 147-148.

[36] *People vs. Nadera*, supra note 18, pp. 505, 508.

[37] *People vs. Molina*, supra note 20, pp. 388-389.

[38] *Id.*, p. 389, citing *People vs. Durango*, G.R. Nos. 135438-39, April 5, 2000, 329 SCRA 758, 767.

[39] *Id.*, p. 389.

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