

PEOPLE OF THE PHILIPPINES, APPELLEE VS. BENJAMIN GALVEZ, APPELLANT.

G.R. No. 135053. March 06, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The mandatory procedure laid down by jurisprudence and the Rules of Court should be meticulously observed by trial courts in accepting a plea of guilt in a case involving a capital offense. There should be no doubt that the accused might have misunderstood the nature of the charges and the consequences thereof. Otherwise, the plea would be set aside for having been improvidently made.

The Case

For automatic review is the July 30, 1998 Decision[1] of the Regional Trial Court (RTC) of Bayombong, Nueva Vizcaya (Branch 27) in Criminal Case No. 3299, convicting Benjamin Galvez of qualified rape and sentencing him to death. The assailed Decision disposed as follows:

“WHEREFORE, finding the accused Benjamin Galvez y Domingo GUILTY beyond reasonable doubt of committing rape against his own daughter, 16 years old at the time of the rape, he is hereby sentenced to die by lethal injection; to pay the victim the sum of P50,000.00 as civil indemnity and to pay the costs of the suit.”[2]

The Facts

In its Brief,[3] the Office of the Solicitor General presents the following narration of facts:

“Cristina Galvez was born on May 10, 1981. She, her father, Benjamin Galvez, the appellant herein, together with her five (5) siblings, resided at Tuao South, Bagabag, Nueva Vizcaya.

“Sometime in the third week of April 1997, about 6:00 o’clock in the evening, Cristina, who was then sixteen (16) years old, and her youngest sister, Melowin, were sleeping beside each other on the bed. Their bed was beside an aparador and Cristina slept on the side nearest to the aparador. Appellant’s bed was beside the door and was just near the bed where Cristina and Melowin were sleeping. Three (3) of their brothers were also asleep in the house, namely, Melchor, 13 years old, Alvin, 12 years old, and Jesus, 9 years old, while their 19 year-old brother was at a neighbor’s house watching television. Their mother, Marilyn Galvez, was not with them as she was in Hongkong at that time.

“That night, appellant, who was drunk, arrived and then ate. After eating, he went to lie down on his bed. After a lapse of thirty (30) minutes, appellant went to lie down on the bed where Cristina and Melowin were sleeping. He positioned himself on the right side of Cristina, slowly lifting and moving Melowin, who was asleep beside Cristina, away from her sister’s side. Then, he slowly removed Cristina’s shorts and shirt and began touching her on all parts of her body. He positioned himself on top of her but she kicked him, causing him to be thrown against the aparador. Apparently hurt and angered, he pulled his samurai from under his mat and pointed it towards the left front portion between her breast and her armpit. Scared, she was immobilized. She knew of her father’s capacity to kill her because she had previously witnessed how he almost killed their

mother when the latter was still with them before she left for Hongkong. Appellant completely undressed himself, started to kiss her, and forcibly inserted his sexual organ into hers and did a pumping motion. Before leaving her to sleep on his bed, he threatened to kill her if she would report what he did to her, warning that he would also include the one whom she would report to. She felt pain on her body, including her private parts. She also saw a small quantity of blood coming from her vagina.

“On April 28, 1997, appellant repeated the dastardly act on his daughter, Cristina. This time, he already held the samurai, pointing it towards her neck when he went near her. Afraid, she had to allow appellant to undress her without a struggle and he successfully had sexual intercourse with her. He thereafter regularly raped her about 3 to 4 times a week, usually after a one (1) day interval. This went on until Cristina became pregnant and gave birth to a baby boy on January 23, 1998. The baby boy was named Christian.”[4] (Citations omitted)

In an Information dated February 20, 1998, appellant was charged with multiple rape, defined and penalized under Republic Act No. 8353. He allegedly committed the crime as follows:

“That sometime in the third week of April, 1997, in the evening and several times thereafter, in Barangay Tuao South, Municipality of Bagabag, Province of Nueva Vizcaya, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, with the use of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of his daughter Cristina Galvez y Tomboc, 16 years old at the time, against the latter’s will and without her consent, to her damage and prejudice including her parents.”[5]

During the arraignment, read and explained to appellant in Ilocano -- a dialect he spoke and understood -- were the charges for ten counts of rape. Assisted by Atty. Renato Mercado, he pleaded not guilty to the charges.[6] However, on May 14, 1998, appellant, this time with the assistance of Atty. Ruby Rosa Espino,[7] changed his plea to that of guilt. In accordance with the RTC’s Order dated May 14, 1998, an inquiry into the voluntariness and full comprehension of his plea was conducted. After hearing evidence for the prosecution, the lower court rendered the assailed Decision.

Appellant did not present any evidence on his behalf. Neither did his counsel present in his Brief any counter-statement of the facts.[8]

Ruling of the Trial Court

The automatically appealed Decision states that the trial was conducted pursuant to *People v. Alicando*,[9] which held that “a conviction in capital offenses cannot rest alone on a plea of guilt -- after a free and intelligent plea of guilt, the trial court must require the prosecution to prove the guilt of the appellant and the precise degree of his culpability beyond reasonable doubt.”[10] As appellant absolutely refused to offer any evidence in his own favor, the trial court decided the case solely on the basis of the evidence presented by the prosecution.

According full faith and credence to the testimony of the victim, the RTC found that she had been raped by her father. It based its conclusion on the following: (1) she cried several times during her testimony; (2) no daughter, especially one as young as she was, would have charged her own father with so serious an offense that prescribed the death penalty, if she had not indeed been raped; (3) appellant was accorded the chance to refute the claim of his daughter, yet he did not; besides, a young girl like her would not have submitted to the advances of her own father, unless these were made through force and intimidation; and (4) appellant entered a plea of guilt.[11]

However, the RTC convicted him of only one count of rape perpetrated in the third week of April, 1997, because the Information had alleged only one incident of the crime. The allegation that the victim was raped several times after the third week of April 1997 was deemed “too indefinite to give the accused the opportunity to prepare his defense.”

Hence, this automatic appeal.[12]

The Issue

Appellant prays for the remand of the case to the court of origin for proper arraignment and trial based on this sole assignment of error:

“The court a quo gravely erred in not applying the safeguards set forth under Rule 116, 1985 Rules on Criminal Procedure.”[13]

This Court’s Ruling

We agree with appellant -- his plea of guilt was improvident.

Main Issue:

Proper Procedure When the Accused Pleads Guilty in a Case Involving a Capital Offense

Citing *People v. Bello*,[14] appellant argues that the trial court failed to observe the mandatory procedure for accepting a positive plea to a charge punishable by death.

The stringent procedure governing the reception of a plea of guilt, especially in a case involving the death penalty, is imposed upon the trial judge in order to leave no room for doubt on the possibility that the accused might have misunderstood the nature of the charge and the consequences of the plea.[15]

In *People v. Aranzado*,[16] the Court, citing Section 3, Rule 116[17] of the Rules of Court, set the following guidelines for receiving a plea of guilt in a case involving a capital offense:

“(1)

The court must conduct a searching inquiry into the voluntariness and full comprehension of the consequences of the plea;

(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 in his behalf and allow him to do so if he desires.” [18]

Moreover, as prescribed in *Aranzado*, the searching inquiry to be conducted by the trial court should consist of the following:

“(1)

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. These the court shall do in order 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 or avenging quarters.

(2)

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.

(3)

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.

(4)

Inform the accused [of] the exact length of imprisonment or nature of the penalty under the law and the certainty that he will serve such sentence. Not infrequently indeed 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 see to it that the accused does not labor under these mistaken impressions.

(5)

Require the accused to fully narrate the incident that spawned the charges against him or make him reenact the manner in which he perpetrated the crime, or cause him to supply missing details of significance.”[19]

Appellant’s re-arraignment on May 14, 1999 miserably fell short of these guidelines, as shown by the pertinent portion of the transcript of stenographic notes, which we quote hereunder:

“PROS. CASTILLO:

By way of dialogue with the defense counsel the accused is willing to enter a plea of guilty for the ten (10) counts of rape, your Honor.

COURT:

Why don’t you arraign him? Alright, the previous plea of not guilty is now withdrawn to give way to the plea of guilty by the accused for 10 counts of rape but as the Court had already observed we have to conduct the re-arraignment of this case. Will you please arraign him.

(The accused was arraigned by reading to him the Information in Ilocano dialect which the accused speaks and understands.)

INTERPRETER:

The accused pleaded guilty.

COURT:

I would like to ask the accused if he understands from his counsel, the circumstances in this case because the victim here is his own daughter and she is below 18 years of age. In accordance with the heinous offense law, the Court will have to impose on him the penalty of death. Is this clear to the accused? At any rate we will conduct a trial to find out if there is sufficient evidence to convict you so that your rights will be protected you are given a chance to prove your innocence latter to refute the evidence of guilt beyond reasonable doubt.”[20]

It is clear from the foregoing that the trial judge did not conduct a “searching inquiry” into the voluntariness of appellant’s plea of guilt and full comprehension thereof. He asked no questions on the subjects mentioned in Aranzado. His purported compliance with Alicando was more like a monologue, or a warning at best, rather than a searching inquiry. He did not inquire into appellant’s personality profile -- age, socio-economic status or educational background.[21] His Honor did not even require an answer to his question on whether appellant realized that the death penalty would result from the latter’s plea. No response from appellant was given or recorded.

Moreover, there is no showing that the lawyer explained to appellant the consequences of the latter’s plea -- probable conviction and death sentence. Equally important, the trial judge should have asked why the plea of appellant was changed. The former obtained none of the information required in Aranzado. Hence, there is no basis to conclude that the latter voluntarily and intelligently pleaded guilty to the charges against him.

In Bello, the Court remarked that there were cases when the accused would plead guilty in the hope of a lenient treatment or because of promises from the authorities or parties that an expression of remorse would result in a lighter penalty.[22]

Where the punishment to be inflicted is death, it is not enough that the information be read to the accused or even translated into the dialect they speak. This is because the implementation of such penalty is irrevocable, and experience has shown that innocent persons have at times pleaded guilty.[23] The trial court must avoid improvident pleas of guilt, since the accused might be admitting their guilt and thus forfeiting their lives and liberties without having fully understood the meaning, significance or consequences of their pleas.[24]

What is apparent here is that appellant was not properly advised by his counsel. In *People v. Sevileno*,[25] the Court remanded the case for re-arraignment of the accused who had been charged with the rape and murder of a nine-year-old girl, because his counsel had declined to present evidence for his client, banking on the mitigating circumstance of the plea of guilt. This Court clarified that under no circumstance would an admission of guilt in

that case affect or reduce the death sentence because it was a single indivisible penalty which is applied regardless of any mitigating or aggravating circumstance attending the crime.

In the instant case, the Court also notes that “guilty” was not the original plea of appellant; hence, careful effort should have been exerted by the court below to inquire into why he changed his plea. In addition, he refused to present evidence in his defense. This should have again prompted the trial judge to probe more deeply, following the guidelines in Aranzado.

A plea of guilt is improvidently accepted where no effort is made to explain to the accused that, in a case involving a capital offense, such plea may result in the imposition of the death penalty.[26] The same is true when the requirements in Aranzado are not satisfied.[27] Recently, in *People v. Bernas*,[28] the Court set aside a death sentence and remanded the case to the trial court, because the Aranzado guidelines on how to conduct a “searching inquiry” had not been followed.

WHEREFORE, the automatically appealed Decision is SET ASIDE. Criminal Case No. 3299 is REMANDED to the court of origin for re-arraignment and further proceedings to be conducted with all deliberate speed, in accordance with this Decision. No costs.

SO ORDERED.

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

[1] Penned by Judge Jose B. Rosales.

[2] Assailed Decision, p. 5; rollo, p. 17.

[3] Appellee’s Brief was signed by Solicitor General Ricardo P. Galvez, Assistant Solicitor General Mariano M. Martinez and Solicitor Fay L. Garcia.

[4] Appellee’s Brief, pp. 4-7; rollo, pp. 73-76.

[5] Rollo, p. 5; records, p. 1.

[6] April 17, 1998 Order; records, p. 14.

[7] May 14, 1998 Order; records, p. 19.

[8] Appellant’s Brief was signed by Public Attorney IV Arceli A. Rubin, Public Attorney III Amelia C. Garchitorena and Public Attorney II Beatriz G. Teves-de Guzman; rollo, pp. 45-57.

[9] 251 SCRA 293, December 12, 1995.

[10] Assailed Decision, p. 2; rollo, p. 14.

[11] Assailed Decision, p. 4; rollo, p. 16.

[12] This case was deemed submitted for decision on October 5, 2000, upon receipt by this Court of the Reply Brief signed by Attys. Arceli A. Rubin, Amelia C. Garchitorena & Beatriz G. Teves-de Guzman of the Public Attorney’s Office, counsel for appellant.

[13] Rollo, p. 47.

[14] 316 SCRA 804, 811, October 13, 1999.

[15] *People v. Magat*, 332 SCRA 517, 526, May 31, 2000.

[16] GR Nos. 132442-44, September 24, 2001, per Davide Jr., CJ.

[17] “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 present evidence in his behalf.”

[18] *People v. Aranzado*, *supra*, p. 9.

[19] *Ibid.*, pp. 10-11.

[20] TSN, May 14, 1999, pp. 2-3; rollo, pp. 35-36.

[21] *People v. Bello*, *supra*, p. 814; *People v. Nadera*, 324 SCRA 490, 502, February 2, 2000.

[22] *Supra*, pp. 813-814.

[23] *People v. Albert*, 251 SCRA 136, 145-146, December 11, 1995, per Regalado, J.

[24] David G. Nitafan, “Arraignment in Serious Offenses,” 251 SCRA 161, 164, December 11, 1995, citing *People v. Gonzaga*, 127 SCRA 158, 163, January 30, 1984 and *People v. Havana*, 199 SCRA 805, 811, July 31, 1991.

[25] 305 SCRA 519, 530-531, March 29, 1999.

[26] *Bello*, *supra*, p. 813; *People v. Derilo*, 271 SCRA 633, 655, April 18, 1997.

[27] Cf. *Nadera*, *supra*, p. 503.

[28] GR No. 133583-85, February 20, 2002.

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