

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANILO ESPIDOL Y VILLANUEVA (DECEASED), SAGRADO DALACAT Y SANTOS, ALFREDO TOMAS, Y LIMOS (AT-LARGE), AND ARMANDO ANIASCO, ACCU...

G.R. No. 150033. November 12, 2004

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Courts must be careful to avoid improvident pleas of guilt and, where grave crimes are involved, the proper course is to take down evidence to determine guilt and avoid doubts.[1]

In a rather atypical case, both the defense and the State, in the case at bar, are enthused by a common clamor – the remand of this case to the court a quo on the argument that the accused now stands on death row because of a plea of guilty improvidently made.

For automatic review is the decision[2] dated 22 August 2001 of the Regional Trial Court (RTC) of Vigan City, Ilocos Sur, Branch 20, in Criminal Case No. 4333-V, finding appellant Sagrado Dalacat guilty beyond reasonable doubt of the complex crime of robbery in band with homicide and sentencing him to death. Appellant was ordered to pay the heirs of the victim, Hipolito Bagay, the sum of P50,000 as civil indemnity, P1,200,000 as actual damages, and the costs.

The information charging appellant Sagrado Dalacat and his co-accused, Danilo Espidol, Alfredo Tomas, Virgilio Corpuz, and Armando Aniasco with Robbery in Band with Homicide reads:

That on or about the 14th day of October, 1998, in the municipality of Vigan, province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, all armed with illegally possessed firearms (unrecovered) with intent to gain, in band, did then and there stage a hold-up at the business establishment of the family of Hipolito Bagay, by wilfully, unlawfully and feloniously and with violence and intimidation, pointing their firearms at Hipolito Bagay, Erlinda Sabado Bagay and Johanna Go, and shot Hipolito Bagay thereby inflicting mortal gunshot wounds on him which caused his death a few days thereafter, and then wilfully, unlawfully and feloniously and with intent to gain, the above-named malefactors took, stole and carried away the amount of ONE MILLION TWO HUNDRED THOUSAND PESOS (P1,200,000.00), Philippine Currency, belonging to Hipolito Bagay on board a get-away vehicle, a Mitsubishi L-300 van bearing plate no. CME-337, to the damage and prejudice of the heirs of the late Hipolito Bagay.[3]

On 06 April 1999, the case against Virgilio Corpuz was dismissed for lack of sufficient evidence[4] and accordingly, his name was stricken out from the information.[5] Corpuz later became state witness. In the interregnum, accused Danilo Espidol died in jail while Alfredo Limos fled from prison on 08 March 1999 and has remained at-large.[6] As for Armando Aniasco, the trial court issued an order for his arrest on 17 July 2001 upon learning that he was detained in the Cabanatuan City Jail in Nueva Ecija for another offense.[7]

On 08 March 1999, appellant was arraigned and with the assistance of his counsel, Atty. Hermilo Barrios, he pleaded not guilty.[8]

At the ensuing trial, the prosecution presented its two witnesses, namely: Virgilio Espiritu Corpuz and Johanna Go.

On direct examination, 29-year old VIRGILIO ESPIRITU CORPUZ a.k.a. “BILLY” testified that he was employed as a driver of a car rental shop owned by one Genaro de la Cruz of San Nicolas, Tarlac City. In his narrative, on 13 October 1998, he was assigned to chauffeur for four (4) men, including herein appellant, to Vigan, Ilocos Sur, for two days. At 2:00 p.m. that day, Corpuz and his passengers headed off to Vigan aboard an L-300 van with Plate No. CME 337.[9]

En route to Vigan, at about 10:00 p.m., Aniasco ordered Corpuz to park the van in Santa Maria, Ilocos Sur, at the house of a man whom the group addressed as “Barangay Captain” (or Captain), allegedly to collect the sum of P50,000, which the latter owed to Aniasco. Aniasco had a brief conversation with said Barangay Captain after which they proceeded to a beach resort where they spent the night.[10]

The following day, Aniasco directed Corpuz towards a house near the basketball court to fetch a certain “Gadong” who went with them to the Captain’s house, purportedly to collect the amount of P50,000 from the latter. Gadong and Aniasco entered the Captain’s house, but shortly, Aniasco returned to the van to wait. According to him, the Captain, who was then cash-strapped, will mortgage his motorcycle to come up with the cash. Later, a “mestizo-looking” man emerged from the Captain’s house, driving a motorcycle and left. When the mestizo returned, Aniasco spoke with him briefly then the group headed off to Vigan, Ilocos Sur.[11]

In Vigan, Corpuz was ordered to park near the El Juliana Hotel near a bridge, under the pretext that Aniasco’s group will go on sight-seeing of the Vigan Church, famous for its tower. But Corpuz recalled that the group did not actually take a look at the said tower as they left the van briefly.[12] Upon their return to the van, Corpuz was instructed to proceed to Puro, Magsingal, Ilocos Sur, where the group haggled for motorcycles totalling P95,000. They were, however, unable to purchase any vehicle because according to Aniasco’s group, the cash they had was in dollars, which they must first exchange to pesos.[13] For this purpose, they proceeded to the commercial establishment owned by Hipolito Bagay and his family, who have a money exchange store in the same building.[14] Corpuz was directed to park the vehicle in front of the building and to keep the engine on as they will just exchange their dollars in a jiffy.[15]

The group then alighted from the van and entered the store of the Bagays. Shortly, Corpuz heard something broke. This noise was followed by a woman’s scream. The noise, according to Corpuz, did not emanate from the place where the group entered so he looked around the place for anything odd, but found none, so he relaxed. The four men returned momentarily and boarded the van in haste. Corpuz sensed something was amiss as the men were fidgeting and one of them even let slip three times that they made a mistake (Kagkamalan kami putang ina).[16]

Corpuz noticed that Aniasco was holding a green folder, which he wrapped in his jacket. Aniasco gave directions to Corpuz on which way to go and upon reaching Bantay, Ilocos Sur, he alighted, carrying with him the green folder, bid the rest of them goodbye, and uttered, “We will see each other at the Captain’s or go straight [ahead].”[17]

Alfredo Limos then transferred to the front seat. He patted Corpuz by the shoulder and asked him to remain calm. He explained that they were members of sparrow unit and were just following orders from their Chief. After hearing those words, Corpuz begged the group to spare him, as he was a family man with four children to support.[18]

Upon reaching a checkpoint in Santa, Ilocos Sur, on the way to Manila, the group asked Corpuz to turn right and to proceed slowly because Dalacat and Espidol will get off. The duo left P500 with Limos for gasoline. After Dalacat and Espidol left, Limos and Corpuz went on with their trip for Manila with Limos warning Corpuz that if they pass by a checkpoint, the latter should remain tight-lipped about the incident.

As they were negotiating a turn in the national high-way, Corpuz eyed some policemen blocking the road, so he stopped the van. When he saw an opportunity to alight from the van, he rushed to the law enforcers, raised his hands and blurted out, "I'm only the driver, sir!"[19] Corpuz then pointed to the van and tipped the police that Alfredo Limos was inside it. The apprehending officers later brought Corpuz to the municipal building where he was incarcerated until his release on 06 April 1999.[20]

24-year old Johanna Go, next witness for the prosecution, was the fiancée of Edward Bagay, brother of the victim Hipolito Bagay.

Go recalled, on direct examination, that on 14 October 1998, she was cross-stitching at the porch of the commercial establishment owned by the family of Hipolito Bagay located at the corner of Plaridel and Mabini Streets in Vigan, Ilocos Sur. Hipolito Bagay was then manning the money exchange office inside said building. At about 11:30 a.m., she spotted two men, whom she later identified as Limos and Espidol, alight from the van. Out of the blue, Limos pointed a revolver at Johanna from a distance of one meter and pushed her towards Erlinda Bagay, wife of the victim Hipolito Bagay. Limos then announced a heist.

As Limos was pushing Johanna and Erlinda towards the inner small door leading to the adjoining money exchange office, Johanna heard a sudden gunburst. She knelt down near a table and while in this position, saw two men coming out of the money exchange office. One of them, whom she later identified as Espidol, was holding a green bag and the other, whom she identified as appellant Dalacat, opened the table drawer next to her and took the money in it. The men hurriedly left the building with their loot, passing through the back door.

After the ruckus, Johanna caught sight of Hipolito Bagay, bathed in blood. Johanna called the hotel where Edward, her fiancé and Hipolito's brother, was in order to apprise him of the mayhem. When Edward Bagay arrived, Hipolito Bagay was rushed to the Saint James Hospital, Vigan, Ilocos Sur. A few days later, Hipolito expired.[21]

On 13 June 2001, shortly after the prosecution's third witness was sworn in, appellant changed his tune. Atty. Fatima Vitamog, appellant's new counsel, manifested in open court about appellant's desire to change his plea to guilty. Appellant was re-arraigned, with the information read to him in the local dialect. To the charge of Robbery with Homicide in a Band, he pleaded guilty.[22]

The trial court set another hearing on 26 July 2001 to assess appellant's comprehension of his plea. At said hearing, appellant was represented by Atty. Ligaya Ascaño vice Atty. Vitamog. Thereat, the trial court inquired from appellant if his new counsel clearly explained to him the legal effects and consequences of his plea of guilty. He answered in the affirmative. Without much ado, the trial court deemed the case submitted for decision and on 22 August 2001 rendered the assailed decision, the fallo of which read-

Considering that no mitigating circumstance could be considered in favour of the accused in view of the fact that the prosecution has already started to present two (2) of its witnesses against the accused, and considering the voluntariness of the plea of guilty of the accused, the Court accepts the plea of guilty and hereby finds accused SAGRADO DALACAT guilty beyond reasonable doubt of the complex crime of Robbery in Band with Homicide, punished by Article 294 of the Revised Penal Code in relation to Article 296 of the same code as charged in the information, with no extenuating circumstance hereby sentences him to suffer the penalty of DEATH, and to indemnify the heirs of the deceased, HIPOLITO BAGAY the sum of P50,000.00 and the

further amount of ONE MILLION TWO HUNDRED THOUSAND PESOS (P1,200,000.00), with all the accessory penalties provided for by law and no subsidiary imprisonment in case of insolvency and to pay the costs.

Let the entire records of the case together with the documentary evidence and transcribed stenographic notes be forwarded to the Honorable SUPREME COURT for automatic review.[23]

In light of the imposition of the death penalty upon appellant, the records of the case were elevated to this Court for automatic review.

Appellant assigns the following errors for the Court's consideration:

I.

THE TRIAL COURT SERIOUSLY ERRED IN FAILING TO CONSIDER APPELLANT'S PLEA OF GUILTY AS IMPROVIDENT;

II.

THE TRIAL COURT GRAVELY ERRED IN FAILING TO CONTINUE WITH THE TRIAL AND RECEPTION OF EVIDENCE AFTER ACCUSED SAGRADO DALACAT CHANGED HIS PLEA TO A PLEA OF GUILTY;

III.

SUPPOSING, WITHOUT ADMITTING, THAT APPELLANT'S PLEA OF GUILTY WAS VALIDLY MADE, THE TRIAL COURT SERIOUSLY ERRED IN HOLDING THAT THE OFFENSE OF ROBBERY WAS COMMITTED BY A BAND;

IV.

THE TRIAL COURT SERIOUSLY ERRED IN CONSIDERING "BAND" AND "USE OF UNLICENSED FIREARMS" AS a QUALIFYING CIRCUMSTANCES IN THE COMMISSION OF THE OFFENSE OF ROBBERY WITH HOMICIDE TO WARRANT THE IMPOSITION OF THE MAXIMUM PENALTY OF DEATH.[24]

At bottom is the issue of whether or not the plea of guilty by appellant was validly made to convict him of a capital offense. Ancillary to this are the issues of: (1) whether the prosecution evidence was sufficient to merit conviction of appellant, and (2) whether the penalty of death was properly imposed.

On the first issue, appellant, in his Brief, waxes lyrical on the lower court's imposition of the penalty of death upon him on the basis of his plea of guilty sans his full comprehension of its sense and substance. He bemoans the trial court's failure to propound sufficient questions to ascertain if he had indeed intelligently understood such plea. He remonstrates that the trial court did not proceed with the reception of his evidence, which he says was in flagrant violation of law and jurisprudence concerning a plea of guilt to a capital offense.[25]

The Office of the Solicitor General (OSG), in lieu of a brief, filed a manifestation,[26] fusing with appellant in his prayer that the case be remanded to the court a quo for further proceedings.

Appellant's contention, as adopted by the OSG, is imbued with merit.

The crime of robbery with homicide is punishable by reclusion perpetua to death under Article 294(1) of the Revised Penal Code, which provides:

Article 294 – Robbery with violence against or intimidations of persons – Penalties. – Any person guilty of

robbery with the use of violence against or any person shall suffer:

- The penalty of reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed, or when the robbery shall have been accompanied by rape or intentional mutilation or arson.

The information, to which Dalacat pleaded guilty, alleged that the robbery with homicide was committed in a band, which if proved would warrant the penalty of death. Apropos the plea of guilt, Section 3, Rule 116 of the 2000 Revised Rules of 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 present evidence in his behalf.

This provision was a reproduction of its precursor prior to the amendment of the Rules of Court. Based on this rule, there are three (3) conditions that the trial court should kowtow to in order to forestall the entry of an improvident plea of guilty by the accused, namely:

- The court must conduct a searching inquiry into the voluntariness x x x and full comprehension [by the accused] of the consequences [of his plea];
- The court must require the prosecution to present evidence to prove the guilt of the accused and the precise degree of his culpability; and
- The court must ask the accused [whether] he desires to present evidence on his behalf, and allow him to do so if he [so] desires. (Emphasis supplied.)[27]

The mandatory nature of these three requisites for a valid plea of guilty to a capital offense is easily deducible from the letter of the law. Lamentably, the court a quo failed to play the rules of the game.

For a vivid exposition, herewith reproduced is the transcript of stenographic notes (TSNs) illustrating the trial court's treatment of appellant's change of plea, viz:

ATTY. VITAMOG:

For the record, Your Honor, I have just conferred with the accused, Your Honor and he really desires to change his plea of not guilty to guilty and I conferred thoroughly and explained the consequences of his plea of guilt, but still, he insisted to change his plea of not guilty to that of guilty, Your Honor.

COURT:

What is the name of the accused?

ATTY. VITAMOG:

Accused Sagrado Dalacat, Your Honor.

COURT:

Will you call the accused to come here?

x x x x x x x x

Q.

Are you really willing to change your plea of not guilty to guilty?

A.

Yes, Your Honor.

Q

Do you know the legal consequences of your plea of guilt?

A.

Yes, Your Honor.

COURT:

What can you say Fiscal?

PUBLIC PROSECUTOR CABLAYAN:

That the accused should be informed that the decision of this Honorable Court will be automatically reviewed by the Supreme Court, Your Honor. Probably, the penalty is reclusion perpetua to death, Your Honor.

COURT:

You explained to the accused.

PUBLIC PROSECUTOR CABLAYAN:

Yes, Your Honor.

COURT:

ORDER:/ When this case was called for hearing, the defense counsel Atty. Fatima Vitamog manifested in open Court that the accused Sagrado Dalacat is now willing to change his plea of not guilty to that of guilty. When the accused was confronted that the legal effect of his plea of guilty will not change the facts of the case considering that the prosecution had already presented three (3) witnesses and that the penalty of the crime of Robbery in Band with Homicide is Reclusion Perpetua to death and the accused was asked of his willingness to change his former plea of not guilty to guilty. Whereupon, the prosecution also informed the accused Sagrado Dalacat that the case will be automatically reviewed by the Supreme Court and that his penalty will be affirmed or lowered by the Supreme Court which was understood by the accused. Whereupon, the accused was arraigned, and he pleaded guilty to the crime charged against him. In view thereof, the case is submitted for decision. SO ORDERED.[28] (Emphasis supplied.)

The transcript of the hearing on 26 July 2001 is further set forth below for a clearer illustration, to wit:

COURT:

Atty. Ascaño, can you not represent Atty. Vitamog? It is only the Court who will ask questions to the accused.

ATTY. ASCAÑO:

For the accused in collaboration with Atty. Fatima Vitamog, Your Honor.

COURT:

[Alright], you call the accused in the witness stand.

COURT INTERPRETER:

Calls the accused Sagrado Dalacat in the witness stand. (sic)

TO THE WITNESS: Please stand up, raise your right hand to take your oath.

Q.

Do you solemnly swear to tell the truth and nothing but the whole truth?

A.

Yes, sir I do.

Q.

Please state your name, age and other personal circumstances?

A.

SAGRADO DALACAT, 29 years old, single, jobless and a resident of Cabanatuan City.

x x x x x x x x

QUESTIONS FOR THE COURT:

Q.

On June 13, 2001, you withdrew your plea of not guilty and instead with the assistance of Atty. Fatima Vitamog, you pleaded guilty to the offense charged?

A.

Yes, Your Honor.

Q.

Before you pleaded guilty with your counsel Atty. Vitamog, Atty. Vitamog explained the legal effect and consequences of your plea of guilt? (sic)

A.

Yes, Your Honor.

Q.

And Atty. Vitamog explained that by pleading guilty to the information filed against you, you admitted all the allegations in the information?

A.

Yes, Your Honor.

Q.

And that by reason of your pleading guilty, you maybe imposed the penalty of the capital offense being a heinous crime? (sic)

A.

Yes, Your Honor.

Q.

The Branch Fiscal informed that the decision of this Court will be automatically reviewed by the Supreme

Court. Did you understand the explanation of the Branch Public Prosecutor? (sic)

A.

It was the Court Interpreter who explained, Your Honor.

Q.

And after being re-informed of the legal effect and consequence of your plea of guilty, do you still affirm to your plea of guilty on June 13, 2001?

A.

Yes, Your Honor.

COURT:

Do you have any questions Atty. Ascaño?

ATTY. ASCAÑO:

No more, Your Honor.

COURT:

How about the Provincial Prosecutor?

PROVINCIAL PROSECUTOR VILORIA:

No more, Your Honor.

COURT:

ORDER:/ When this case was called for hearing today, Provincial Prosecutor Jessica G. Viloria and Atty. Arnulfo Manzano appeared for the prosecution while Atty. Ligaya Ascaño appeared for the accused Sagrado Dalacat in collaboration with Atty. Fatima Vitamog. In the course of the proceedings, accused Sagrado Dalacat was placed in the witness stand wherein the Court asked if he affirms and confirms to change his former plea of not guilty to guilty and the accused answered in the affirmative. Wherefore, and there being no objection on the part of the Provincial Prosecutor as well as the private prosecutor, the above-entitled case with respect to accused Sagrado Dalacat is hereby submitted for resolution.

SO ORDERED.[29] (Emphasis supplied.)

On the first requisite of Section 3, Rule 116,[30] we held in a spate of cases that a searching inquiry must focus on the voluntariness of the plea and the full comprehension of the consequences of the plea so that the plea of guilty can be truly said to be based on a free and informed judgment.[31]

As far back as the 1968 case of *People v. Apduhan*,[32] the Court under the ponencia of former Mr. Chief Justice Castro, had explained the importance of an in-depth searching inquiry to avert improvident pleas of guilty. Thus-

x x x. [T]rial judges x x x must refrain from accepting with alacrity an accused's plea of guilty, for while justice demands a speedy administration, judges are duty bound to be extra solicitous in seeing to it that when an accused pleads guilty he understands fully the meaning of his plea and the import of an inevitable conviction.

While there is no cast-iron rule as to how a judge may conduct a "searching inquiry," we outlined the following guidelines in a throng of cases:

(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 by actual threats of physical harm coming from malevolent or avenging quarters.[33]

(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.[34]

(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.[35]

(4) 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. 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.[36]

(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.[37]

In the case at bar, a cursory look at the transcripts easily reveal the fact that appellant's plea of guilty was far from spontaneous and persistent as envisioned by Section 3, Rule 116 of the Revised Rules of Criminal Procedure. The trial court not only failed to probe into the spontaneity of appellant's plea, it made no effort to apprise him of the impact of his change of plea as the accused herein was merely told that he could face the penalty of reclusion perpetua to death. A mere warning that the accused faces the supreme penalty of death is insufficient, for more often than not, an accused pleads guilty upon bad advice or because he hopes for a lenient treatment or a lighter penalty.[38]

On the second and third indispensable requirements of the Rule, earlier in *People v. Camay*,[39] we cautioned trial judges on the importance of requiring the prosecution to present evidence on the accused's culpability, thus:

The amended rule is a capsulization of the provisions of the old rule and pertinent jurisprudence. We had several occasions to issue the caveat that even if the trial court is satisfied that the plea of guilty was entered with full knowledge of its meaning and consequences, the Court must still require the introduction of evidence for the purpose of establishing the guilt and the degree of culpability of the defendant. (Emphasis supplied.)

Recently, in *People v. Besonia*,[40] this Court, with Mr. Chief Justice Davide as ponente, echoed the caveat in *People v. Camay*, viz:

It must be stressed that a plea of guilty is only a supporting evidence or secondary basis for a finding of culpability, the main proof being the evidence presented by the prosecution to prove the accused's guilt beyond reasonable doubt. Once an accused charged with a capital offense enters a plea of guilty, a regular trial shall be conducted just the same as if no such plea was entered. The court cannot, and should not, relieve the prosecution of its duty to prove the guilt of the accused and the precise degree of his culpability by the requisite quantum of evidence. The reason for such rule is to preclude any room for reasonable doubt in the mind of the trial court, or the Supreme Court on review, as to the possibility that the accused might have misunderstood the nature of the charge to which he pleaded guilty, and to ascertain the circumstances attendant to the commission of the crime which may justify or require either a greater or lesser degree of severity in the imposition of the prescribed penalties.

Like the first requirement of a searching inquiry, the second and third indispensable requirements under Section 3,

Rule 116 of the Rules as aforesaid have, likewise, remained intact through the years.

Given the unchanging state of the three-tiered requisites in Section 3, Rule 116,[41] there is, indeed, no justification for the trial court's failure to observe them.

Thus, we purge the decision under review of its errors and remand the case to the trial court for further re-arraignment, a more incisive searching inquiry and the reception of evidence for the prosecution and the defense, if the latter so desires, in accordance with the foregoing guideposts.

Given our disquisition, we find no further need to belabor the ancillary issues on the sufficiency of evidence and on the propriety of the capital punishment. But, one last observation.

As bared by both appellant and the OSG, the Court cannot feign a blind eye on the lackadaisical attitude exuded by Atty. Hermilo Barrios, appellant's counsel. His disregard of his duty as an advocate to his client's cause is patent in the admissions of facts he propounded during the pre-trial conference, which, to our mind, were detrimental to appellant's case, i.e., his admission that appellant was with his co-accused, Danilo Espidol, Alfredo Tomas, Virgilio Corpuz, and Armando Aniasco on the day of the incident in Vigan, Ilocos Sur, and his proposed stipulation that there was no unanimity of intent among the four accused in the commission of the crime.[42] Such declarations had practically pinned appellant to the crime charged and had, in effect, laid down the groundwork for his eventual admission of guilt.

Adding insult to the injury, Atty. Barrios, repeatedly failed to appear during the trial despite his receipt of no less than four notices from the trial court.[43] Worse, Atty. Barrios had withdrawn from representing appellant sans any written explanation of his withdrawal or a written conformity from the accused filed in court, which is in flagrant disdain of Section 26, Rule 138 of the Rules of Court.[44]

Things went from bad to worse for appellant in the hands of Atty. Fatima Vitamog, counsel de oficio vice Atty. Barrios. As observed by the OSG with alacrity, Atty. Vitamog took appellant's plea of guilt line, hook, and sinker, devoid of the slightest effort to extract from him any piece of information that could perhaps mitigate, if not extricate him from the severe penalty of death.

And, like her predecessors, Atty. Ligaya Ascaño, third counsel for appellant in lieu of Atty. Vitamog,[45] did not lift a finger to safeguard her client's interest.

Astonishingly, the court initially referred appellant to the Integrated Bar of the Philippines Legal Aid,[46] and subsequently, to the Public Attorney's Office, as counsels de oficio. Given the dearth of advocates willing to take the cudgels for him, it was no surprise that appellant soon took matters in his hand as he attempted, but failed to escape from captivity.[47] And when this stab at freedom was thwarted, appellant ostensibly defeated, admitted authorship of the crime charged, oblivious of the fact that such admission could cost him his life.[48]

Incessantly, this Court has endeavoured to strike a chord among the members of the bar that a lawyer's sworn duty of fidelity to his client means an efficient and truly decisive legal assistance and not a simple perfunctory representation. Thus, in *People v. Nadera*, [49] the Court held:

Only faithful performance by counsel of his duty towards his client can give meaning and substance to the accused's right to due process and to be presumed innocent until proven otherwise. Hence, a lawyer's duty, especially that of a defense counsel, must not be taken lightly. It must be performed with all the zeal and vigor at his command to protect and safeguard the accused's fundamental rights.

Irrefragably, the performance of Attys. Hermilo Barrios, Fatima Vitamog, and Ligaya Ascaño were below par of the advocacy demanded of them specially given the gravity of the offense charged and the severity of the

imposable penalty. Accordingly, they are hereby ADMONISHED for their sloppiness in protecting appellant's rights with a WARNING that a repetition of similar acts shall be dealt with more severely.

WHEREFORE, the decision dated 22 August 2001 of the Regional Trial Court (RTC) of Vigan City, Ilocos Sur, Branch 20, in Criminal Case No. 4333-V is REVERSED and SET ASIDE. The case is REMANDED to said court for trial against appellant SAGRADO DALACAT in accordance with law and pertinent jurisprudence. The trial court is enjoined to conduct the proper trial of accused-appellant with all deliberate speed upon receipt of the records of the cases.[50] The appropriate law enforcement officers are directed to TRANSFER appellant from the National Penitentiary in Muntinlupa City where he is presently detained to the Provincial Jail of Vigan, Ilocos Sur for the duration of the proceedings in the trial court and to report to this Court the action taken herein within fifteen (15) days from receipt hereof. Conformably with Section 16, Rule 119 of the 2000 Rules of Criminal Procedure,[51] the trial court is ordered to conduct a joint trial against appellant and his co-accused ARMANDO ANIASCO, it appearing that the latter is now in detention. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio-Morales, Callejo, Sr., Azcuna, and Garcia, JJ., concur.

Puno, J., on official leave.

Corona, and Tinga, JJ., on leave.

[1] II F. Regalado, Remedial Law Compendium, 309 (7[th] ed., 1995).

[2] Penned by Judge Alipio V. Flores, Rollo, pp. 16-23.

[3] Id. at 9-10.

[4] Records, pp. 86-87.

[5] Id. at 91.

[6] Id. at 99.

[7] Id. at 228.

[8] Id. at 71.

[9] TSN, 12 April 1999, pp. 9-10.

[10] Id. at 16.

[11] Id. at 17-18.

[12] Id. at 19-20.

[13] Id. at 21.

[14] TSN, 21 September 1999, p. 2.

[15] Ibid.

[16] Id. at 3.

[17] Id. at 3.

[18] Id. at 4.

[19] Id. at 5.

[20] Id. at 6.

[21] TSN, 14 June 1999, pp. 3-11.

[22] Rollo, p. 22.

[23] Id. at 22-23.

[24] Id. at 69.

[25] Id. at 73-79.

[26] Id. at 113-127.

[27] People v. Bello, G.R. Nos. 130411-14, 13 October 1999, 316 SCRA 804, 811.

[28] TSN, 13 June 2001, pp. 2-3.

[29] TSN, 26 July 2001, pp. 1-4.

[30] 2000 Revised Rules of Criminal Procedure.

[31] People v. Alicando, G.R. No. 117487, 12 December 1995, 251 SCRA 293, cited in People v. Sta. Teresa, G.R. No. 130663, 20 March 2001, 354 SCRA 697. See also People v. Durango, G.R. Nos. 135438-39, 05 April 2000, 329 SCRA 758 and People v. Aranzado, G.R. Nos. 132442-44, 24 September 2001, 365 SCRA 649.

[32] G.R. No. L-19491, 30 August 1968, 24 SCRA 798, 817. See II F. Regalado, Remedial Law Compendium 309. See also People v. Aguilar, G.R. No. L-30932, 29 January 1971, 37 SCRA 115.

[33] People v. Estomaca, G.R. Nos. 117485-86, 22 April 1996, 256 SCRA 421 and People v. Durango, supra, note 31, cited in People v. Aranzado, supra, note 31.

[34] Ibid., People v. Nadera, Jr., G.R. Nos. 131384-87, 02 February 2000, 324 SCRA 490.

[35] People v. Alicando, supra, note 31, People v. Bello, supra, note 27.

[36] People v. Dayot, G.R. No. 88281, 20 July 1990, 187 SCRA 637.

[37] Ibid.

[38] People v. Nadera, Jr., supra, note 34.

[39] G.R. No. L-51306, 29 July 1987, 152 SCRA 401, 403-404.

[40] G.R. Nos. 151284-85, 05 February 2004.

[41] Supra, note 30.

[42] TSN, 12 April 1999, pp. 2-4.

[43] Records, pp. 180, 187, 189, 197, and 209.

[44] SEC. 26. Change of attorneys. – An attorney may retire at any time from any action or special proceeding, by the written consent of his client filed in court. He may also retire at any time from an action or special proceeding, without the consent of his client, should the court, on notice to the client and attorney, and on hearing, determine

that he ought to be allowed to retire. (Emphasis supplied.)

[45] Records, p. 229.

[46] Id. at 197.

[47] Id. at 220.

[48] Id. at 222.

[49] Supra, note 34 at 505.

[50] Supra, note 34 at 509.

[51] Sec. 16. Trial of several accused. – When two or more accused are jointly charged with an offense, they shall be tried jointly unless the court, in its discretion and upon motion of the prosecutor or any accused, orders separate trial for one or more accused.

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