

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EUGENIO LAGARTO Y GETALADO, JR., ACCUSED-APPELLANT.

G.R. No. 65833. May 06, 1991

Ponente: PARAS, J.

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PARAS, J.:

This is an automatic review of the judgment[*] of the Regional Trial Court, 8th Judicial Region, Branch XXII, Laoang, Northern Samar, in Criminal Case No. 1566, finding the accused EUGENIO LAGARTO y GETALADO, JR. guilty beyond reasonable doubt of the crime of MURDER.

The pertinent facts of the case are:

In the early evening of May 25, 1983, Reynaldo Aducal, who was buying fish in the public market, Poblacion Laoang, Northern Samar, was fatally stabbed. Right after the stabbing, the assailant was apprehended by Pfc. Wenefredo Laguitan whose commendable act thwarted the assailant's escape.

For the killing of Reynaldo Aducal, accused Eugenio Lagarto y Getalado was charged in an amended information with the crime of Murder as defined and penalized under Article 248 of the Revised Penal Code, allegedly committed as follows:

"That on or about the 25th day of May, 1983, at about 6:00 o'clock in the evening more or less, inside the public market Bgy. Little Venice, Municipality of Laoang, Province of Northern Samar, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with deliberate intent to kill with the qualify-ing circumstances of treachery and evident premeditation did then and there willfully, unlawfully and feloniously attack, assault and stab one REYNALDO ADUCAL y LURA with the use of a Batangas fan knife or Balisong which the above-named accused had provided himself for the purpose, thereby inflicting upon said victim fatal wounds on his chest, which wounds caused the instantaneous death of the victim.

"Accused is a recidivist, having been previously convicted by final judgment of another crime embraced IN THE SAME TITLE OF THE REVISED PENAL CODE, THAT OF MURDER IN CRIMINAL CASE NO. 1473."

"CONTRARY TO LAW.

(Record, "Amended Information", p. 35)

Upon arraignment, appellant entered a plea of guilty.

The records disclose that the trial court had asked appellant whether or not he understood the consequences of his plea. Following the rulings of this Court, however, the trial court still directed the prosecution to present its evidence for the purpose of establishing with certainty the guilt and the degree of culpability of the accused.

Two witnesses were presented by the prosecution: they were Zosimo Aducal, father of the victim, and Pfc. Wenefredo Laguitan.

1. Zosimo Aducal testified that in the evening of May 25, 1983 while he was attending to his farm, three (3) kilometers away from the poblacion of Little Venice, Laoang, Northern Samar, his grandson Artemio Aducal, son of Reynaldo, informed him that Reynaldo Aducal had been stabbed dead; he was not able to see his deceased son that night because he could not see his way during night time; it was only in the following morning when he saw his deceased son with two stab wounds on the right and left breast. (TSN, October 18, 1983, pp. 14-20).

2. Pfc. Wenefredo Laguitan testified that on May 25, 1983, around 6:00 in the evening, while he and Pat. Manuel Sevillana were passing the market place, his attention was called by a certain Armando Baluyot to a commotion; he observed that the people were scampering for safety and a man was escaping; when somebody shouted that the man was the assailant, he immediately followed the man and apprehended him right then and there; at the police headquarters the man admitted to him that he had long planned to kill the victim; and that, the plotter was Eugenio Lagarto, Jr., herein appellant. (TSN, October 18, 1983, pp. 22-28).

The prosecution likewise presented the following evidence:

(a) Case Record of Criminal Case No. 1473 entitled "People v. Eugenio Lagarto, Jr." showing that appellant had been convicted by final judgment of homicide. (Exhibit "A" to "A-1-a");

(b) Death Certificate of deceased Reynaldo Aducal (Exhibit "B");

(c) Fan knife (Exhibit "D");

(d) Extra-judicial confession of appellant (Exhibit "C" to "C-4"), which discloses the following:

07. Question

:

Do you know Reynaldo Aducal personally?

Answer

:

Not so much, sir, but he was the one who stabbed my brother Pablito last 1980.

08. Question

:

What was the result when Reynaldo Aducal stabbed your brother Pablito?

Answer

:

As a result, my brother Pablito was hospitalized.

09. Question

:

Why did you stab to death Reynaldo Aducal?

Answer

:

I stabbed him to death sir, as a revenge or retaliation for his stabbing of my brother Pablito.

10. Question

:

According to what you have said Reynaldo Aducal had stabbed your brother Pablito in 1980. Do you mean to say that since 1980 up to May 25, 1983 you had been planning to avenge your brother by killing Reynaldo?

Answer

:

Yes, sir..

(p. 2, Exhibit "C")

Based on the appellant's plea of guilty and the evidence adduced, the trial court rendered judgment, the dispositive portion of which reads:

"WHEREFORE, the Court accepts his plea and declares accused, Eugenio Lagarto y Getalado guilty beyond reasonable doubt as principal of the crime of Murder defined and penalized in Article 248 of the Revised Penal Code, as charged in the information, appreciating in his favor the mitigating circumstance of spontaneous plea of guilty which is offset by the aggravating circumstance of evident premeditation, the Court hereby sentences said accused to suffer the extreme penalty of DEATH with all the accessories provided for in Art. 40 of the Revised Penal Code.

The accused is hereby ordered to indemnify the heirs of Reynaldo Aducal in the amount of P12,000.00 and to pay the costs.

SO ORDERED."

(Decision, p. 5; Rollo, p. 20)

The imposition of the supreme penalty of Death warrants an automatic review by this Court. However, the penalty of Death had been changed to reclusion perpetua in accordance with the provision of Section 19(1), Article III of the 1987 Constitution.

The counsel de oficio recommends that the sentence be modified, contending that:

"I. THE LOWER COURT ERRED IN APPRECIATING THE AGGRAVATING CIRCUMSTANCE OF EVIDENT PREMEDITATION AGAINST THE ACCUSED.

"II. THE LOWER COURT LIKewise ERRED IN APPRECIATING THE AGGRAVATING CIRCUMSTANCE OF TREACHERY AGAINST THE ACCUSED; AND

"III. CONSEQUENTLY, THE LOWER COURT ERRED IN SENTENCING THE ACCUSED TO SUFFER THE EXTREME PENALTY OF DEATH."

(Brief for Accused-Appellant, p. 4; Rollo, p. 118)

It is a well-established rule that a plea of guilty, besides being a mitigating circumstance, is a judicial confession of guilt - an admission of all the material facts alleged in the information, including the aggravating circumstances. (People vs. Ariola, 100 SCRA, 523) To be considered a true plea of guilty, it must be made by the accused freely, voluntarily and with full knowledge of the consequences and meaning of his act. It must be made unconditionally. (People vs. Comendador, 100 SCRA 155).

In the case at bar, the trial court exerted its utmost effort to be extra solicitous in seeing to it that the accused fully understood, the meaning and importance of his plea. Thus,

Q.

Do you realize the import and consequences of your having entered the plea of guilty?

A.

Yes, your Honor.

.....

Q.

Now, the Court would repeat to you that you have entered the plea of guilty to a most grievous offense?

A.

Yes, your Honor.

Q.

For having entered a plea of guilty to the present crime of murder for the killing of Reynaldo Aducal you are therefore submitting the case without presenting your own evidence, do you realize that?

A.

Yes, your Honor.

Q.

And despite this advise and admonition to you by the court, do you still insist on entering a plea of guilty to the crime as charged?

A.

Yes, your Honor.

Q.

The Court will advise you that in this kind of offense which is a crime of murder there is only one possible penalty and the court has no other recourse but to impose it, that of death, do you realize that?

A.

Yes, your Honor."

(Translated in the dialect known to the accused)

(TSN, October 11, 1983, pp. 2-4).

The trial court was not remiss in its obligation to warn the accused of the important consequences of his plea. The possibility that death might be imposed should have warned the accused to protect his interest: even an ordinary unlettered man fears death. And despite the thought of losing his life, the accused pleaded guilty. We are convinced that the guilt of the accused has been proved beyond reasonable doubt in the light of overwhelming evidence presented by the prosecution, fully corroborated and substantiated by the plea of guilty of the accused.

The only issue before Us is whether or not the trial court correctly appreciated the existence of recidivism and the qualifying circumstances of evident premeditation and treachery.

Section 5, Rule 118 of the old Rules of Court provides that "Where the defendant pleads guilty to a complaint or information, if the trial court accepts the plea and has discretion as to the punishment for the offense, it may hear witnesses to determine what punishment shall be imposed." (underscoring supplied). The trial court in a criminal case may sentence a defendant who pleads guilty to the offense charged in the information, without the necessity of taking testimony. (US vs. Talbanos, 6 Phil. 541). Yet, it is advisable for the trial court to call witnesses for the purpose of establishing the guilt and the degree of culpability of the defendant. (People vs. Comendador, supra) The present Revised Rules of Court, however, decrees that where the accused pleads guilty to a capital offense, it is now mandatory for the court to require the prosecution to prove the guilt of the accused and his precise degree of culpability, with the accused being likewise entitled to present evidence to prove, inter alia, mitigating circumstances (See People vs. Camay, 152 SCRA 401; Section 3, Rule 116 of Rules of Court).

In the case at bar, the trial court directed the prosecution to present evidence for the purpose of establishing the guilt and degree of culpability of the defendant.

We find, as the trial court found, that the accused is a recidivist. A recidivist is one who, at the time of his trial for one crime, shall have been previously convicted by final judgment of another crime embraced in the same title of the Revised Penal Code. Herein accused had been convicted of the crime of homicide in Criminal Case No. 1473 before the trial of the present Criminal Case No. 1566. The former counsel de oficio of herein accused alleged that the judgment in Criminal Case No. 1473 was rendered on September 15, 1983, hence when the accused was arraigned on October 11, 1983 for Criminal Case No. 1566 he was not a recidivist.

The former counsel de oficio is of the opinion that "the time of trial" is to be reckoned with the date of the arraignment. The phrase "at the time of his trial" should not be restrictively construed as to mean the date of arraignment.

We declared in People vs. Enriquez, 90 Phil. 428, that the phrase "at the time of his trial for an offense" is employed in its general sense, including the rendering of the judgment. In US vs. Karelsen, 3 Phil. 23, We held that the phrase "at the trial" is meant to include everything that is done in the course of the trial, from arraignment until after sentence is announced by the judge in open court. In the case at bar, the accused was convicted of

homicide in Criminal Case No. 1473 on September 15, 1983. There being no appeal, the judgment therein became final on October 11, 1983. The second conviction was rendered on October 26, 1983 for Murder. Hence, it is crystal clear that the accused is a recidivist: the accused had been convicted by final judgment at the time of the rendition of the judgment for the second offense.

We find no merit in the finding of the trial court that evident premeditation and treachery existed in the commission of the crime. It is a rule that a plea of guilty cannot be held to include evident premeditation and treachery where the evidence adduced does not adequately disclose the existence of these qualifying circumstances (*People vs. Gravino*, 122 SCRA 123).

Evident premeditation requires proof of the following requisites; (a) the time when the offender determined to commit the crime; (b) an act manifestly indicating that he had clung to his determination; and (c) a sufficient lapse of time between the determination and the execution of the crime to allow him to reflect upon the consequences of his act and to allow his conscience to overcome the resolution of his will. (*People vs. Cafe*, 166 SCRA 704; *People vs. Montejo*, 167 SCRA 506).

The statement of the accused, that he had long planned to kill Reynaldo Aducal in retaliation for the act of Reynaldo Aducal in stabbing his brother, does not adequately prove the existence of evident premeditation. It is necessary to establish that the accused meditated on his intention between the time it was conceived and the time the crime was actually perpetrated. Defendant's proposition was nothing but an expression of his own determination to commit the crime which is entirely different from premeditation. (*People vs. Carillo* 77 Phil. 572). In *People vs. Alde*, 64 SCRA 224, We ruled that there is no evident premeditation where the only evidence to support it is the statement of the accused that he planned to kill the victim in 1964 when actual stabbing was 1969.

To show premeditation, it is required that the criminal intent be evidenced by notorious acts evincing the determination to commit the same. (*People vs. Guiyab*, 139 SCRA 446). It must be evident and not merely suspected (*People vs. Iturriaga*, 88 Phil. 534) or merely thought of or contemplated mentally, without externalized acts. The finding of the trial court, that the accused had clandestinely concealed the knife in his body away from the searching eye of the prison guards which showed the deliberate intent of the accused, is not borne out by the records. Perusal of the records does not show that the accused deliberately planned the killing through external acts. The finding of facts by the trial court should not be based on mere assumptions; there must be proof that such facts exist.

In order that treachery may be appreciated, it is necessary to prove the manner in which the victim was attacked. Treachery can in no way be presumed but must be fully proved. Where there are merely indications that the attack was sudden and unexpected, but there are no precise data on this point, the circumstance of treachery can not be taken into account. (*People vs. Ariola*, supra)

In the case at bar, there is no evidence to show that the mode of attack was consciously adopted as to insure the perpetration of the crime and safety from the defense that the victim might put up. There is an absence of evidence to show the means employed by assailant and the mode of attack. Treachery may not be simply deduced from assumptions; it must be as clearly proved as the crime itself in order to qualify the crime into murder.

WHEREFORE, the trial court's judgment is MODIFIED. Accused-appellant EUGENIO LAGARTO y GETALADO is hereby CONVICTED of homicide; appreciating in his favor the mitigating circumstance of spontaneous plea of guilty which is offset by the aggravating circumstance of recidivism, the Court hereby sentences said accused to an indeterminate penalty of ten (10) years of prision mayor as minimum, to seventeen (17) years and four (4) months of reclusion temporal as maximum, and to pay the heirs of Reynaldo Aducal an

indemnity of fifty thousand pesos (P50,000.00). Costs de oficio.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

[*] Penned by Judge Justo M. Sultan.

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