

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO BANDOJO AND MAMERTO ARTUZ, ACCUSED-APPELLANTS.

G.R. No. 66945. July 09, 1986

Ponente: CRUZ J.

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CRUZ J.:

The charge in this case was piracy in violation of P.D. 532. The sentence imposed, on the basis of guilty pleas, was death.[1] The issue is whether or not the guilty pleas were valid and had been validly accepted.

According to the information, Eduardo Bandojo and Mamerto Artuz, in conspiracy with each other, while on board a pumpboat on the seawaters of Bantayan, Cebu, on June 15, 1983, fatally shot Consolacion Alfar and then took her money in the sum of P5,000.00. Thereafter, they threw the dead body into the sea and forced the other passengers to jump overboard (although they were fortunately saved by another pumpboat).[2]

The accused-appellants admitted the above charge in extra-judicial confessions taken from them without observance of their rights under Article IV, Section 20, of the Constitution on June 17, 1983.[3] We flatly and at the outset reject these documents. Later, however, at their formal arraignment, they entered separate pleas of guilty.[4]

The trial judge, upon the pleas being made, did not immediately impose sentence. On the contrary, he asked both of the accused many searching questions to satisfy himself that they understood the nature and consequences of their confessions.[5] Not content with his first examination on February 3, 1984, he questioned them again at still another hearing on February 10, 1984.[6] Only after he had assured himself that the accused-appellants knew what they were doing did he finally pronounce his judgment of death.

The defense now asks us to annul that judgment. It is claimed that the trial judge should have received independent testimony to determine the liability of the accused-appellants, considering that, first, they were charged with a capital offense, and, second, their testi-mony belied and in effect nullified their pleas of guilty.

We note that, on questioning by the trial court, Bandojo denied the allegation of conspiracy between him and Artuz and put the blame on the latter for killing the victim. He said he could not control Artuz.[7] He claimed he was only a companion of Artuz and that it was Artuz who did the killing and stole the money. He explained that he entered the plea of guilty "so that the case will not be dragged."[8]

For his part, Artuz, while affirming his plea of guilty, maintained that he was forced by Bandojo to go with him "because he had a long weapon" and "I cannot do anything." [9] Inconsistently, he said the gun he was holding exploded because it was windy [10] and then again that it was pointed at the victim and it exploded upon his (Bandojo's) order. [11] He affirmed he would not have killed her "if it was not for his order." [12] He also said the money was received by Bandojo. [13]

Recalled to the stand after he had asked for a recess because he was nervous, Bandojo denied having ordered Artuz to shoot the victim and said the latter had fired because he was "rattled." [14] He also said his purpose in

going to Bantayan was merely to sell the firearm he was carrying.[15]

In *People v. Balisacan*, [16] this Court, after observing that "the accused had first entered a plea of guilty" but later "testified, in the course of being allowed to prove mitigating circumstances, that he acted in complete self-defense," declared through Justice Bengzon:

"Said testimony therefore - as the court a quo recognized in its decision - had the effect of vacating his plea of guilty and the court a quo should have required him to plead anew on the charge or at least direct that a new plea of not guilty be entered for him."

It is also settled that -

"Where a plea of guilty is entered by the defendant, in cases where the capital penalty may be imposed, the court should make 'certain that defendant fully understands the nature of the charge preferred against him and the character of the punishment provided by law before it is imposed. The trial court should therefore call witnesses for the purposes of establishing the guilt and degree of culpability of the defendant, not only to satisfy the trial judge, but also to aid the Supreme Court in determining whether the accused really and truly understood and comprehended the meaning, full significance and consequences of his plea.'" [17]

Conformably to the above doctrines, we should remand this case to the lower court and direct it to conduct a regular trial at which more evidence should be received, both from the prosecution and the defense, to determine the nature and extent of the involvement, if any, of the accused-appellants in the offense charged. That is the rule.

We shall deviate from this rule, however, because the guilt of the herein accused-appellants has not only been acknowledged by them but also adequately verified by the trial judge. Indeed, his painstaking efforts in this regard are evident in the records of this case and demonstrate his anxiety to insure against a precipitate conviction. It is manifest that he tried his best not only to get to the truth of what actually happened but also to see to it that the defendants understood what they were facing by their pleas of guilty.

The exception to the rule was recently applied by this Court in *People v. Samiano*, [18] where it was reiterated that:

"It is not always de rigueur or mandatory upon the trial court to receive evidence when a plea of guilty is entered in capital cases. The court has discretion to dispense with the reception of evidence (*People v. Duaban*, L-31912, August 24, 1979, 92 SCRA 743)." [19]

Probing without badgering, the trial judge was as thorough as he was considerate, even giving defendant Bandojo a chance to relax before resuming his testimony. With the other accused, the younger Artuz, who was only 25 years old at that time, he was also fair but searching. And not only that. What is especially noteworthy is that after interrogating them at the time of their arraignment, he questioned them again at another hearing he found it necessary to schedule, to be doubly sure that the accused-appellants understood the consequences of their confessions. [20]

It is significant that although the accused-appellants disagreed on the details of the offense and in fact blamed each other therefor, both of them insisted on pleading guilty. They were consistent in this stance while at the same time trying to minimize their responsibility. Obviously, they had been advised that such a plea would mitigate their penalty, and perhaps they were also hoping it was possible to avoid it altogether. We are satisfied, though, that the trial judge made it clear to them that they could not eat their cake and have it too.

Their denials would normally have invalidated their guilty pleas under the *Balisacan* rule, but this would not apply here because both of them later retracted these denials. Thus, on the allegation of conspiracy, Bandojo had the following to say at the second hearing:

Q

Then on page 7 of the transcript of stenographic notes, you were asked by the court whether you and your co-accused Mamerto Artuz had a plan to commit that crime of Piracy and you said, "We did not plan it, Your Honor, it happened so suddenly." Will you please elaborate on this statement when you say, "We did not plan it, it happened so suddenly." Why did it happen so suddenly?

A

When we were already riding on the pumpboat and the pumpboat had already travelled for two hours, that was the time we planned to rob.

Q

So, there was really an agreement between you and Mamerto Artuz, your co-accused, to rob the owner of the pumpboat which in this case is Concepcion Alfar.

FISCAL

Consolacion, Your Honor . . . Consolacion Alfar, is that right?

A

When we were already riding on the pumpboat.

Q

So, in answer to the question of the court on page 27, when you said that was agreed upon, your agreement therefore was to rob the owner of the pumpboat, is that right?

A

Our plan was just to get the money but if somebody will resist or challenge us, we will fight back.[21]

As for Artuz, this is how the questioning went:

Q

Do I understand from your statement now that you said you are no longer rattled; that you really conspired or planned with Bandojo in robbing Consolacion Alfar that noon of June 15, 1983?

A

Yes, sir while we were already in the pumpboat.[22]

While Bandojo had earlier disclaimed complicity in the killing, he declared later that "if they will resist, we are going to fight back," adding that "Consolacion Alfar rushed at Mamerto Artuz, that's why she was shot, because Consolacion was a big woman." [23]

The robbery was, of course, never seriously denied by either of the accused-appellants, and the money stolen, less only P100.00, was found in their possession at the time of their arrest.[24]

Finally, when asked in open court what they felt over the offense imputed to them, they had the following to say:

Court:

Do you want to say something else about your plea of guilty in this case?

Bandojo:

I plead to you, Your Honor, that you will have pity on us.[25]

x x x xxx xxx

Court:

What do you want to say now to the court? Do you want to say something?

Artuz:

I only plead to you, Your Honor, that we will be given the lesser penalty that you can impose upon us.[26]

We are convinced that the accused-appellants committed the crime of piracy under the circumstances alleged in the information. Their guilt, which they repeatedly confessed in court, has been established beyond the shadow of a doubt. The trial judge did not err in convicting them notwithstanding the absence of the usual reception of evidence in cases involving capital offenses. Considering the trial judge's earnest questioning of the accused-appellants, one of whom, incidentally, was even a college student,[27] we hold that their pleas of guilty were knowingly made and not improvidently accepted.

Nevertheless, for lack of the necessary votes, the death penalty is hereby reduced to reclusion perpetua.

The trial judge, the Hon. Francis T. Militante, recommends executive clemency for the accused-appellants and says of them: "They are not hardened criminals. They are still capable of reforming themselves. They are still young. They should be given a chance to live and reform themselves so that they can be assimilated back to society and above all with their families." [28] We refer this re-commendation to the President of the Philippines for such action as she may deem appropriate in the premises.

WHEREFORE, the appealed judgment is AFFIRMED but with the modification that the death penalty is reduced to reclusion perpetua and the civil indemnity is increased to P30,00.00. Cost against the accused-appellants.

SO ORDERED.

Teehankee, C.J., Abad Santos, Feria, Yap, Fernan, Narvasa, Melencio-Herrera, Alampay, Gutierrez, Jr., and Paras, JJ., concur.

[1] Rollo, p. 9.

[2] Rollo, p. 6.

[3] Exh. A, p. 21.

[4] TSN, February 3, 1984, p. 83.

[5] TSN, February 3, 1984, pp. 84-110.

[6] TSN, February 10, 1984, pp. 69-79.

[7] TSN, February 3, 1984, p. 86.

[8] TSN, February 3, 1984, p. 88.

[9] TSN, February 3, 1984, p. 96.

[10] TSN, February 3, 1984, p. 97.

[11] TSN, February 3, 1984, pp. 97-98.

[12] TSN, February 3, 1984, p. 101.

[13] TSN, February 3, 1984, p. 101.

[14] TSN, February 3, 1984, p. 106.

[15] TSN, February 3, 1984, p. 107.

[16] 17 SCRA 1119.

[17] *People v. Serna, et al.*, L-33294, July 25, 1984, 130 SCRA 550, citing *People v. Pablo Gonzales*, 92 SCRA 527.

[18] 136 SCRA 426.

[19] *People v. Gonzales*, L-33303, November 21, 1980, 101 SCRA 246, 250-251, cited in *People v. Samiano*, 136 SCRA 426.

[20] TSN, February 10, 1984, pp. 69-79. But cf Rule 116, Section 3, 1985 Rules on Criminal Procedure.

[21] TSN, February 10, 1984, pp. 72-73.

[22] TSN, February 10, 1984, p. 78.

[23] TSN, February 10, 1984, p. 73.

[24] TSN, February 3, 1984, p. 100.

[25] TSN, February 10, 1984, p. 75.

[26] TSN, February 10, 1984, p. 79.

[27] TSN, February 3, 1984, p. 109.

[28] *Rollo*, p. 9.

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