

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TEODORO HAVANA, ACCUSED-APPELLANT. D E C I S I O N*G.R. No. 68033. July 31, 1991*

Ponente: FERNAN, C.J.

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This is an appeal from the decision of the Regional Trial Court, Branch VI in Prosperidad, Agusan del Sur, convicting the accused-appellant Teodoro Havana, a member of the Manobo tribe, a cultural minority in Agusan del Sur, of rape with homicide and imposing upon him the extreme penalty of death.[1]

In an information dated March 1, 1984, the acting provincial fiscal charged Teodoro Havana with the crime of rape with homicide. It was alleged therein that on January 11, 1984 at about 5 o'clock in the afternoon, Havana had sexual intercourse with Exuperia Pisudas against her will in Sitio Magading, La Paz, Agusan del Sur, and thereafter with the use of a bolo, stabbed her on different parts of her body and killed her.[2]

At his arraignment on March 7, 1984, Havana, assisted by a counsel de oficio, pleaded guilty. To satisfy himself as to the correctness of the plea of guilty entered by the accused, Judge Carlo H. Lozada ordered the prosecution to present its evidence. The defense cross-examined the witnesses but did not proffer any evidence of its own.

First to be brought to the witness stand was Avelina Refogio, 18-year old neighbor and schoolmate of the victim Exuperia. Avelina testified that at about 5:00 in the afternoon of January 11, 1984, she was on her way home from school. Nearing Sitio Magading, she met a man whose name she did not know. He was carrying a bolo and there was blood on it. A red jacket was slung on his shoulder. He was bare from the waist up and wore only a pair of short pants. Avelina saw many scratches on his breast and below his neck.[3]

The following day, January 12, 1984, Avelina joined the party that went to Magading to check on a dead body found about 37 meters from the roadside. It turned out to be the missing Exuperia. The area where she was found was covered with cogon and "talahib". From there, one could not see the road on account of the tall grass.[4]

Gemerito Borja, the barangay captain of Osmena, La Paz, narrated that Exuperia's father had earlier sought his help when his daughter Exuperia failed to reach home in the afternoon of January 11, 1984. Borja, in turn, asked the assistance of the PC/INP who subsequently found a corpse which answered the description of Exuperia near the Magading Creek.[5]

Borja proceeded to describe the scene of the crime. Exuperia was lying on the ground, face upwards. On her right arm were her panties. Her body bore many wounds: one at the left side of the neck, a deep cut on the left jaw and five wounds on the left back hand. Exuperia's left finger was cut and blood oozed from her vagina.[6]

At about 4 o'clock in the afternoon, they carried Exuperia's ravaged body to the house of her parents in Osmena. Subsequently, Borja received word that a suspect had been apprehended. At the PC/INP headquarters, Borja was furnished with a copy of the sworn statement purportedly executed by the suspect Teodoro Havana, 25 years old, single, farmer and a resident of Kasapa, La Paz, Agusan del Sur. In that statement, Havana admitted that he raped

Exuperia twice and then boloed her to death for fear that she might report the outrage to the authorities. The extrajudicial confession was admitted in evidence as Exhibit A.[7]

Because of the absence of a physician or any health officer in the river town of Osmena, Exuperia was "examined" only by a "hilot" who also doubled as a "mananabang". Diosdada Rebagos told the court that she was fetched by Exuperia's parents to examine the young girl's vagina. Using her index finger, the "hilot" was able to extract spermatozoa from the inside of the private organ of the deceased. She then informed the parents that their daughter had been sexually abused by a man. Diosdada also found a laceration, about an inch long, at the base of the vagina which could then admit two fingers easily.[8]

The final witness for the prosecution was Patrolman Sabas Pendon who was among those who discovered the cadaver of the young victim in Magading. He made a sketch of the crime scene and of the corpse. The body had become pallid on account of the rain the night before. Strewn beside it were an umbrella, a notebook and a lunchbox.[9]

Pendon testified that Havana was arrested in the morning of January 13, 1984. The police had earlier received reports that there was a person tense, "buang" (insane) and trembling who had sought refuge in the house of a certain Alvarez at Kilometer 41, near Kasapa. After an initial but token resistance, the person, later identified as the accused Havana, gave himself up to the authorities. It was Patrolman Perez who interrogated Havana at the police station in La Paz, during which time, Havana, in the absence of counsel, admitted having raped and killed Exuperia whom he had met hiking alone towards the direction of Barangay Osmena in the afternoon of January 11, 1984.[10]

In its decision promulgated on June 20, 1984, the trial court convicted Havana of the crime of rape with homicide, sentenced him to death and ordered him to pay an indemnity of P12,000.00 to the heirs of Exuperia Pisudas.[11]

Havana's counsel de oficio now contends that the accused had made an improvident plea of guilty. His point is well taken.

We shall backtrack and recount the proceedings which transpired during Havana's arraignment on March 4, 1984. The transcript of the stenographic notes taken shows:

"Court:: All right, arraign the accused. (Accused was called to stand before the Court Interpreter who will read the Information to him). After reading the Information as translated into the Cebu-Bisaya dialect-

"Interpreter to accused: Do you understand the Information read to you?

"Atty. Viajar: Your Honor please, I would like to ask the accused whether he can speak and understand Visayan.

"Interpreter: Do you understand Visayan dialect?

"Accused: Yes, I understand.

"Interpreter: Do you understand the Information read to you?

"Accused: Yes, sir.

"Interpreter: What do you say, guilty, or not guilty?

"Accused: Guilty.

"Atty. Viajar: Your Honor please, I must assume that he (accused) must not have understood whether that plea of guilty would amount to that penalty. So, I may ask this Honorable Court to explain to the accused the possible penalty that may be imposed on him.

"Court to Accused: You have just entered a plea of guilty.

"Accused: Yes, sir, I am guilty.

"Court: Why did you enter the plea?

"Accused: I admit that I really committed that guilt.

"Court: That you raped the girl and killed her afterwards?

"Accused: Yes, sir.

"Court: Are you aware that by your entering a plea of guilty, the Court can impose the penalty provided for by law?

"Accused: Yes, sir, I know.

"Court: Ug gani, ang silot nga ana-a nahisulat sa Penal Codego Revisado mao ang pagbitay kanimo. And the penalty as provided for by the Revised Penal Code is death. Do you still insist on your plea despite this knowledge?

"Accused: No, Sir, I will not admit.

"Court: What do you mean by that? Will you explain?

"Accused: But if that is- because that is the sin I committed, I will accept the death penalty.

"Court: In other words, the Court will take it that despite this knowledge, that by your entering a plea of guilty, the Court possibly will impose the death penalty, you will still insist on that plea of guilty?

"Accused: Because that is commensurate to my sin.

"Court: You were also advised by your counsel de oficio before you were arraigned?

"Accused: Yes, sir.

"Court: And among other things, your counsel told you that this case involves the penalty of death?

"Accused: No, sir.

"Court: You know, your counsel de oficio said that you were told that possibly you might be sentenced to die and you answered in that case, I will not plead guilty, I might as well go into trial' Is that true?

"Accused: Yes, sir.

"Court: And despite the information to you by your lawyer, upon being arraigned you spontaneously entered a plea of guilty.

"Accused: I have already pleaded guilty in La Paz.

"Court: In other words, what you are trying to convey to the Court now is that, you will insist on your plea of guilty because according to you, it actually happened, or you have committed the sin, but what you want to ask the Court is that your life should be spared?

"Accused: Yes, sir, that is what I am asking.

"Court: All right, the Court reserves its Decision." [12] .1s2

Reviewing the above notes, the Court is inclined to agree with appellant's counsel that Havana's acceptance of his criminal deed should have been rejected by the trial court. Havana's replies to Judge Lozada's questions were, for the most part, ambiguous and unresponsive. Which lead us to conclude that there is no reasonable certainty at all that in admitting his culpability in open court, Havana ever had a fair notion of the implications thereof. The following exchange of words between Judge Lozada and Havana during the arraignment reveals that Havana had virtually no grasp of the situation confronting him. Thus:

"Court: You were also advised by your counsel de oficio before you were arraigned?

"Accused: Yes, sir.

"Court: And among other things, your counsel told you that this case involves the penalty of death?

"Accused: No, sir.

"Court: You know, your counsel de oficio said that you were told that possibly you might be sentenced to die and you answered `in that case, I will not plead guilty, I might as well go into trial' Is that true?

"Accused: Yes, sir.

"Court: And despite the information to you by your lawyer, upon being arraigned you spontaneously entered a plea of guilty.

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"Court: In other words, what you are trying to convey to the Court now is that, you will insist on your plea of guilty because according to you, it actually happened, or you have committed the sin, but what you want to ask the Court is that your life should be spared?

"Accused: Yes, sir, that is what I am asking." [13]

As early as *US vs. Talbanos*, [14] the admonition has been made that in cases where the punishment to be imposed is severe, the court must assure itself that the accused is fully cognizant of the repercussions of a guilty plea. In *People vs. Domingo*, [15] the Court stressed once more its injunction on the trial court's duties to the accused.

"We enunciated times without number in Our injunctions addressed to the trial courts that they should exercise solicitous care before sentencing the accused on a plea of guilty especially in capital offenses by first insuring that the accused fully understands the gravity of the offense, the severity of the consequences attached thereto as well as the meaning and significance of his plea of guilty." [16]

When Havana interjected his plea with the request that his life be spared, that in effect qualified his plea because it was tantamount to asking the court for the immediate reduction of the penalty. This development should have alerted Judge Lozada to the possibility that notwithstanding the assistance of counsel de oficio, Havana did not comprehend the full consequences of his plea. For in the special complex crime of rape with homicide, a plea of guilty, albeit mitigating, will not in any way alter the punishment of death imposed by the Penal Code. [17]

It is generally held that in order to be effectual, the plea must be an unconditional admission of guilt. It must be of such a nature as to take away the defendant's right to defend himself from such charge, thus leaving the court with no alternative but to impose the penalty fixed by law. [18]

In *People vs. Sabilul*, [19] the Court ruled:

"An accused may not enter a conditional plea of guilty in the sense that he admits his guilt, provided that a certain penalty be imposed upon him. In such cases, the information should first be amended or modified with

the consent of the fiscal if the facts so warrant, or the accused must be considered as having entered a plea of not guilty." [20]

Altogether, while Judge Lozada had prudently required the presentation of evidence to remove any doubt in his mind that Havana misunderstood the nature and effects of his admission, it nonetheless fell short of the rigid requirements of the law for a valid plea of guilt especially in cases dealing with capital offenses. At the very outset, when Havana manifested his guilt and the trial court interrogated him, it was all too clear that the legal scenario unfolding before his eyes was totally alien and obscure to him and that he could not even begin to comprehend the significance of his declaration that he had raped and killed Exuperia Pisudas. Under such circumstances, the trial court gravely erred in accepting Havana's avowal of guilt, coming as it did from a Manobo tribesman with no known educational attainment.

Digressing from the plea aspect, there are matters in this case which cast a lingering doubt that Havana was afforded the full measure of his legal rights before he was sentenced to death. Of no small significance is the undeniable fact that, all in all, there were four (4) hearings held and in those four hearings, Havana was passed on to a succession of three (3) different counsel de oficio. But in fairness to those lawyers, they exerted their human best to elicit vital information from the prosecution witnesses even as they had to contend with little or no opportunity at all to confer with the accused. [21] They also had to contend with a trial judge who, in at least two (2) instances, was unable to contain his impatience and peremptorily cut short the cross-examination by defense counsel. [22] Then at the hearings of April 12, 1984 (again) and May 24, 1984, the same judge abruptly and inexplicably adjourned the proceedings, as glaringly shown in the stenographic notes. No explanation was asked and none was given. [23]

WHEREFORE, in view of the foregoing, the decision under review is SET ASIDE and the case ordered REMANDED to the court a quo for a new arraignment and for further proceedings. No costs.

So ordered.

Gutierrez, Jr., Feliciano, Bidin, and Davide, Jr., JJ., concur.

[1] Criminal Case No. 1683.

[2] Original Records, p. 1.

[3] TSN, April 12, 1984, pp. 7-9.

[4] Ibid, pp. 11-13.

[5] TSN, April 26, 1984, p. 18.

[6] Ibid, p. 19.

[7] Ibid, pp. 20-22. See Original Records, p. 9.

[8] TSN, May 24, 1984, pp. 32-37.

[9] Exhibit B; TSN, May 24, 1984, pp. 40-42.

[10] Ibid, pp. 43-44, 48.

[11] Original Records, p. 48.

[12] TSN, March 7, 1984, pp. 1-5.

[13] TSN, *supra*; emphasis supplied.

[14] 9 Phil. 541.

[15] Nos. L-30464-5, January 21, 1974, 55 SCRA 237, 243-244.

[16] See *People vs. Gonzaga*, No. L-48373, January 30, 1984, 127 SCRA 158, 166.

[17] Article 63, Revised Penal Code. See *People vs. Francisco*, No. L-37418, September 28, 1979, 93 SCRA 351, 356.

[18] *People vs. Ng Pek*, 81 Phil. 562; *People vs. Serafica*, No. L-29092-93, August 23, 1969, 29 SCRA 123.

[19] 49 O.G. 243.

[20] Emphasis ours; Cited in *People vs. De Luna*, G.R. No. 77969, June 22, 1989, 174 SCRA 204, 210.

[21] See *People vs. Magsi*, No. L-32888, August 12, 1983, 124 SCRA 24; *People vs. del Rosario*, No. L-33270, November 28, 1975, 68 SCRA 242.

[22] TSN, April 12, 1984, p. 15.

[23] TSN, April 12, 1984, p. 15; May 24, 1984, p. 51.

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