

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PATRICK DE LUNA, DEFENDANT-APPELLANT.

*G.R. No. 77969. June 22, 1989*

Ponente: GANCAYCO, J.

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### GANCAYCO, J.:

Two main issues are raised by defendant-appellant in his appeal from the decision of Branch 10 of the Regional Trial Court of Cebu City: (1) Whether or not the defendant-appellant entered a valid plea of guilty to the offense as charged in the information; and (2) Assuming that there was a valid plea of guilty, whether the accused may waive the presentation of evidence for the prosecution.

Charged with Murder before Branch 10 of the Regional Trial Court of Cebu City, under the following information,

"That on or about the 17th day of December 1986, at about 7:00 P.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused with deliberate intent, with intent to kill and with treachery and evident premeditation, did then and there attack, assault and use personal violence upon one Tricia by punching and kicking her on the different parts of her body thereby inflicting upon her the following physical injuries

"CARDIORESPIRATORY ARREST, SECONDARY TO SEVERE MULTIPLE INJURIES, TRAUMATIC."

and as a consequence of said injuries Tricia died in the next day.

CONTRARY TO LAW."[1]

defendant-appellant Patrick de Luna, assisted by Counsel de-Oficio Atty. David Ompoc, when arraigned on December 23, 1986, entered a PLEA OF GUILTY with the qualification that "hindi ko sinasadya."[2]

The five-page transcript of stenographic notes taken on the day of the arraignment reveal the following:

INTERPRETER: (TO ACCUSED)

(After reading the Information)

Q: Do you understand the charge which I have just read to you?

ACCUSED DE LUNA:

A: Yes, I understand but I have no motive to kill her. I was drunk at that time.

INTERPRETER: (TO ACCUSED)

Q: What do you say to this charge, are you guilty or not?

ACCUSED DE LUNA:

A: I am guilty but "hindi ko sinasadya ang nangyari." I was so drunk.

COURT:

Companero, did the accused understand that this is a capital offense?

ATTY. OMPOC: (Explaining to the accused)

Do you understand that this is a capital offense?

ACCUSED DE LUNA:

A: Yes, but "hindi ko sinasadya ang nangyari."

x x x x x x x x

COURT:

'Under the law, the Rules of Court, the prosecution will have to present evidence in order to determine the culpability of the accused in this heinous charge of Murder.

(TO ACCUSED):

What does the accused say, do we have to present evidence for the prosecution?

ACCUSED DE LUNA:

A: No more evidence. No more presentation of evidence. I accept my fault but I want the court to know that I have no motive to kill her.

ATTY. OMPOC:

The accused your honor categorically stated that he does not want evidence to be presented but he accepts his fault, but according to him, he did not intend to commit the crime, "hindi sinasadya."

COURT: (TO ACCUSED)

So you admit the charge against you? You understood the charge of Murder filed against you and you admit you are guilty?

ACCUSED DE LUNA:

Yes, I am guilty but I have no intention to kill the child.[3]

Thereupon, the court a quo rendered a decision dated December 23, 1986 convicting defendant-appellant of the crime of Murder. The decision reads, thus:

"When this case was called for arraignment, Atty. David G. Ompoc, appointed Counsel-de-Oficio for the accused Patrick de Luna lengthily conferred with the accused and after such lengthy conference with the accused, accused Patrick de Luna, upon arraignment registered his plea of Guilty to charge of Murder with the qualification that 'hindi niya sinasadya.'

"Being informed of the charge and having understood the said accusation, the accused waived his right that the prosecution present its evidence in order to determine for this court the degree of culpability of the accused under the present charge.

Aside from the plea of Guilty, the records is [sic] replete with evidence strongly and indubitably showing that on the 17th day of December, 1986 at about 7:00 o'clock in the evening, the accused, with deliberate intent, with intent to kill and with treachery and evident premeditation, did then and there attack, assault and use

personal violence upon one little, small [sic] girl named Tricia by punching and kicking her on the different parts of her body thereby inflicting upon her the following physical injuries:" 'Cardiorespiratory Arrest, Secondary to Severe Multiple Injuries, Traumatic' and as a consequence of said injuries, Tricia died the next day.

WHEREFORE, finding accused Patrick de Luna Guilty beyond reasonable doubt of the crime of Murder and appreciating in his favor the mitigating circumstance of plea of guilty plus his manifestation to this court that he did not intentionally want it to happen that way, the court hereby sentences accused Patrick de Luna to Reclusion Perpetua (life imprisonment) and to indemnify the heirs of Tricia the sum of P30,000.00.

Costs de oficio.

SO ORDERED."[4]

Not satisfied therewith, the defendant-appellant interposed this appeal alleging that the trial court committed the following errors:

## I

THE COURT A QUO ERRED IN SENTENCING THE ACCUSED FOR MURDER WHICH WAS NOT PLEADED OR ADMITTED BY THE ACCUSED, BECAUSE OF HIS QUALIFICATION TO HIS PLEA, THAT HE DID NOT COMMIT THE CRIME INTENTIONALLY.

## II

THE COURT A QUO ERRED IN NOT REQUIRING THE PROSECUTION TO PRESENT EVIDENCE IN ORDER TO DETERMINE THE PROPER PENALTY FOR THE CRIME INVOLVED.

In his first assigned error, it is the contention of appellant that the trial court misappreciated the plea of guilty made by him. Appellant contends that what he admitted was the commission of the crime of Homicide and not Murder because of the repeated qualification to his plea that he did not commit the crime intentionally. He denied the allegations of treachery and evident premeditation in the information which are necessary to sustain a charge and subsequent conviction for Murder. He questions the appreciation by the trial court that what was proved by the qualification 'hindi ko sinasadya' was only the mitigating circumstance of "no intention to commit so grave a wrong" recited in paragraph 3, Article 13 of the Revised Penal Code, and claims that in truth and in fact his plea was that of guilt of the lesser offense of Homicide, not Murder.

The essence of a plea of guilty is that the accused admits his guilt, freely, voluntarily, and with a full knowledge of the consequences and meaning of his act and with a clear understanding of the precise nature of the crime charged in the complaint or information.[5]

While it is true that a plea of guilty admits all the allegations in the information including the aggravating and qualifying circumstances,[6] the repeated and emphatic qualification stated by the defendant-appellant as regards his plea of guilty should have drawn the attention of the trial court that the plea was made without a full knowledge of its consequences. Apparently, counsel failed to advise him as to the meaning and effect of the technical language used in the information qualifying the acts constituting the offense.

In order to be valid, the plea must be an unconditional admission of guilt. It must be of such nature as to foreclose the defendant's right to defend himself from said charge, thus leaving the court no alternative but to impose the penalty fixed by law.[7]

Under the circumstances of this case, the appellant's qualified plea of guilty is not a valid plea of guilty. Thus, this

Court has ruled that:

"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." [8]

While this Court has had the occasion to rule that it is permissible for an accused to enter a plea of guilty to the crime charged with the reservation to prove mitigating circumstances, [9] considering, however, the gravity of the offense charged in the case at bar, the more prudent course for the trial court to follow is to reject the plea made by the appellant and direct the parties to submit their respective evidence.

Even assuming that the plea was in fact to the lesser offense of Homicide and not Murder, as stated by appellant in his appeal, [10] this Court cannot sustain appellant's earnest request for an immediate reduction of the penalty imposed by the trial court. This procedure would run contrary to the explicit provisions of Section 2, Rule 116 of the 1985 Rules on Criminal Procedure, as amended, which states:

"SEC. 2. Plea of guilty to a lesser offense.' - The accused, with the consent of the offended party and the fiscal, may be allowed by the trial court to plead guilty to a lesser offense, regardless of whether or not it is necessarily included in the crime charged, or is cognizable by a court of lesser jurisdiction than the trial court. No amendment of the complaint or information is necessary." (Emphasis supplied.)

The consent of the fiscal and the offended party is necessary. If the plea of guilty to a lesser offense is made without the consent of the fiscal and the offended party, the conviction of the accused shall not be a bar to another prosecution for an offense which necessarily includes the offense charged in the former information. [11]

On the second assigned error, it is the contention of appellant that the trial court, after a plea of guilty to a capital offense (Murder), should have required the prosecution to present its evidence to determine the proper penalty to be imposed.

The Court sustains the appellant on this score.

This Court has had the opportunity to formulate this procedure as early as *People vs. Apduhan, Jr.* [12] and a long line of cases thereafter. [13]

In *People vs. Camay*, [14] this Court has ruled that:

"The procedure to be followed in a situation like this where the accused, with assistance of counsel, voluntarily pleads guilty to a capital offense is explicitly laid down in Sec. 3, Rule 116 of the Rules on Criminal Procedure promulgated by the Court, and which went into effect on January 1, 1985. This new rule states:

'When an 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 require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence in his behalf.'

"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.

x x x x x x x x

"Under the new formulation, three (3) things are enjoined of the trial court after a plea of guilty to a capital offense has been entered by the accused:

1. The court must conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his 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."

This rule is, therefore, mandatory.

After a plea of guilty in capital offenses, it is imperative that the trial court requires the presentation of evidence for the prosecution to enable itself to determine the precise participation and the degree of culpability of the accused in the perpetration of the capital offense charged.

In his Manifestation in lieu of Appellee's Brief, the Solicitor General, in fact, made the following observation:

"Herein trial court's recognition and admission of appellant's purported waiver of his right that the prosecution present further evidence x x x is rather odd. For it is the duty of the trial court to take evidence in capital cases where accused enters a plea of guilty x x x ."[15]

Thus, notwithstanding the waiver made by the appellant as to the presentation of evidence by the prosecution, the presentation of evidence should be required in order 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 there might have been some misunderstanding on the part of the accused as to the nature of the charge to which he pleaded guilty, and to ascertain the circumstances attendant to the commission of the crime which justify or require the exercise of a greater or lesser degree of severity in the imposition of the prescribed penalties.[16]

WHEREFORE, the decision of the trial court dated December 23, 1986 is hereby SET ASIDE. The case is remanded to said court for a new arraignment and further proceeding. No costs.

### **SO ORDERED.**

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

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[1] Page 4, Rollo.

[2] Page 29, Rollo. The phrase "hindi ko sinasadya" means "I did not mean (to do) it."

[3] TSN, December 23, 1986, pages 2 and 3.

[4] Page 6, Rollo.

[5] United States. vs. Borlado, 42 Phil. 72 (1921); United States vs. Dineros, 18 Phil. 566 (1911); United States vs. Jamad, 37 Phil. 305 (1917); People vs. Ng Pek, 81 Phil. 562 (1948); People vs. Balicasan, 17 SCRA 1119 (1966).

[6] People vs. Alicia, 95 SCRA 227 (1980).

[7] People vs. Ng Pek, supra; People vs. Serafica, 29 SCRA 123 (1969).

[8] People vs. Sabilul, 49 O.G. 2743.

[9] People vs. Racaza, 82 Phil. 623 (1949).

[10] Pages 24 and 25, Rollo.

[11] Section 7, Rule 117, 1985 Rules on Criminal Procedure, as amended.

**[12] 24 SCRA 798 (1968).**

[13] People vs. Lacson, 55 SCRA 589 (1974); People vs. Nismal, 114 SCRA 487 (1982); People vs. Abrea, 112 SCRA 83 (1982); People vs. Alibasa, 118 SCRA 183 (1982).

**[14] 152 SCRA 401(1987).**

[15] Page 48, Rollo.

[16] People vs. Basa, 51 SCRA 317 (1973).

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