

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. ERNESTO M. MENDOZA, PRESIDING JUDGE, REGIONAL TRIAL COURT OF MALAYBALAY, BUKIDNON, BRANCH 10, AND JUAN MAGALOP Y SALVACION, RESPO...**

*G.R. No. 80845. March 14, 1994*

Ponente: BELLOSILLO, J.

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**BELLOSILLO, J.:**

This is a petition for certiorari and mandamus filed by the Office of the Provincial Fiscal (now Provincial Prosecutor) of Malaybalay, Bukidnon, in behalf of the People of the Philippines, assailing the judgment of respondent Judge Ernesto M. Mendoza in Crim. Case No. 4264 acquitting accused Juan Magalop y Salvacion, private respondent herein, of the crime of robbery with force upon things notwithstanding his plea of guilt. Petitioner prays that respondent Judge be ordered to reverse his judgment exonerating Magalop and, instead, to impose upon him the proper penalty for the offense to which he pleaded guilty.

The evidence discloses that on 20 January 1987, the storeroom of the Bukidnon National School of Home Industries (BNSHI) in Maramag, Bukidnon, was ransacked. After an on-the-spot investigation, the police found themselves at a loss as to the identity of the culprit or culprits. The value of the missing articles was estimated at P15,298.15.

Eventually, responsibility for the robbery with force upon things was laid on accused Juan Magalop y Salvacion, Petronilo Fernandez y Cano and Ricarte Dahilan alias Ricky. All three (3) were represented by District Citizens Attorney Isidro L. Caracol. At the arraignment on 23 June 1987, Magalop pleaded "guilty" while Fernandez pleaded "not guilty." The arraignment of Dahilan was deferred as he was "not mentally well."

Instead of pronouncing judgment on Magalop, the court a quo conducted trial. The prosecution presented Pat. Jakosalem, INP, who investigated the break-in, as well as a clerk and a storekeeper of the BNSHI. The prosecution likewise offered in evidence colored pictures of the ransacked storeroom, a pair of ordinary pliers colored blue, a pair of long-nose pliers colored red, and a coping saw. The last three items were said to have been recovered by the police.

The defense having opted to waive its right to present evidence, the case was submitted for decision.

On 8 October 1987, respondent Judge acquitted accused Fernandez as well as Magalop who earlier pleaded guilty to the charge. The two-paged, single-spaced judgment is quoted hereunder for careful scrutiny and better appreciation. Thus -

This is a case where three accused were allegedly responsible for forcibly taking things from the storeroom of the Bukidnon National School of Home Industries.

It was established by the prosecution that the storeroom of the Bukidnon National School of Home Industries at Maramag, Bukidnon, on January 20, 1987 was ransacked as shown by the testimonies of the policemen and

by the keepers of the storeroom. After on the spot investigation, the policemen were at a loss to identify the person or persons responsible thereof.

Except for the accused Juan Magalop who pleaded guilty, the identity of the perpetrators remained a problem. Accused Ricarte Dahilan is mentally deranged; hence the trial was separate for accused Petronilo Fernandez and Juan Magalop.

As shown by the evidence of the prosecution, some of the stolen things were in the possession of a certain Babie Tan, consisting of two pliers and a saw, and these were all allegedly sold to said Babie Tan who refused to testify on the matter.

The evidence of the prosecution failed to prove that the three accused were responsible for stealing these three articles or tools.

Although Juan Magalop pleaded guilty, it was not shown who (how?) they conspired and helped each other in the commission of the crime charged. To the Court, the plea of Juan Magalop was not intelligently done. In the course of the proceedings, it was not established how Juan Magalop and Petronilo Fernandez participated in the looting. No evidence was introduced to show that the accused sold the stolen things to Babie Tan, which the prosecution could have proved to show that the possessors of the stolen things could have been identified as the thief or thieves; hence, the prosecution utterly failed to prove the guilt of the accused beyond doubt (underscoring supplied).

PREMISES CONSIDERED, the accused Petronilo Fernandez and Juan Magalop are hereby ACQUITTED. With respect to Ricarte Dahilan, let this case be held in abeyance until he is mentally well.[1]

Its motion for reconsideration having been denied, petitioner is now before us contending that the decision of 8 October 1987 and the order of 4 November 1987 denying reconsideration are "purely capricious and arbitrary, made for no proper reason at all and rendered without legal authority whatsoever, thereby amounting to lack of jurisdiction and/or grave abuse of discretion, and curtailed the power of the state to punish criminals." [2]

Petitioner submits that the accused Magalop, who was assisted by counsel, had voluntarily, spontaneously and intelligently pleaded guilty to the crime of robbery with force upon things. Thus, the trial court had no alternative but to pronounce judgment and impose the proper penalty.

Parenthetically, petitioner interposed no objection to the acquittal of accused Fernandez.

It may be stressed that the petition is defective since it was filed by the Provincial Fiscal and Assistant Provincial Fiscal of Malaybalay, Bukidnon, and not by the Solicitor General. We have already ruled in a number of cases that only the Solicitor General may bring or defend actions on behalf of the People of the Philippines once such actions are brought before the Court of Appeals or the Supreme Court.[3] As a matter of fact, in his Manifestation filed with this Court on 8 June 1989, the Solicitor General steered away from the case, explaining that the petition was filed directly by the Provincial Fiscal of Malaybalay, Bukidnon, "without coursing it through the OSG," as a consequence of which it should be the fiscal who should submit the required pleadings.

Nonetheless, even if we overlook this procedural lapse and treat the case on the merits, the petition should, just the same, be dismissed.

Petitioner would have this Court set aside the acquittal of Magalop, insisting that with his voluntary plea of guilt, the trial court had no other recourse but to pronounce judgment and impose the proper penalty.

The essence of a plea of guilty is that the accused admits his guilt freely, voluntarily and with full knowledge and understanding of the precise nature of the crime charged in the information as well as the consequences of his plea.[4] It is an unconditional admission of guilt with respect to the offense charged. It forecloses the right to

defend oneself from said charge and leaves the court with no alternative but to impose the penalty fixed by law under the circumstances.[5] Thus, under the 1985 New Rules on Criminal Procedure, as amended, when the accused pleads guilty to a non-capital offense, the court may receive evidence from the parties to determine the penalty to be imposed.[6]

This rule is at most directory. It will certainly be a clear abuse of discretion on the part of the judge to persist in holding the accused bound to his admission of guilt and sentencing him accordingly when the totality of the evidence points to his acquittal. There is no rule which provides that simply because the accused pleaded guilty to the charge that his conviction automatically follows. Additional evidence independent of the plea may be considered to convince the judge that it was intelligently made.

Here it is evident, even from the start, that the case of the prosecution against the three (3) accused was virtually non-existent as the asported articles were found in the possession of a certain Babie Tan and yet, quite inexplicably, the prosecution did not summon him to the witness stand. Babie Tan could have positively identified those who sold him the stolen articles if called to testify. Or, he could very well have been the perpetrator of the crime himself. In the absence of an explanation of how one has come into possession of stolen effects, the possessor is presumed to be the author of the crime of robbery.[7]

Indeed, not even the testimonies and the mute exhibits introduced during the trial could breathe life into the moribund state of the case for the prosecution. While the loss of articles in the storeroom of the BNSHI was established, there was nothing, independent of the acknowledgment of guilt, which could link accused Magalop to the robbery. As the trial court succinctly put it, "the plea of Juan Magalop was not intelligently done."

Admittedly, the procedure followed by respondent judge was not the normal course, as the better procedure would have been that set forth in *People v. Padernal*,<sup>[8]</sup> where the court sustained the exoneration of the accused notwithstanding his plea of guilt. In that case, in view of the exculpatory testimony of the accused who had earlier pleaded guilty to the charge of homicide, the trial court correctly considered the plea as withdrawn and, in its place, ordered a plea of not guilty entered. This was not done by respondent judge. For even after finding that the plea of Magalop was not intelligently made, Judge Mendoza proceeded to pass judgment without requiring Magalop to plead anew to the charge. Applying the principle laid down in the *Padernal* case, it can fairly be concluded that there was no standing plea at the time the court rendered its judgment of acquittal hence said acquittal was a nullity.

Be that as it may, however, in the interest of substantial justice, we cannot allow such procedural error to prevail over the constitutional right of the accused to be presumed innocent until the contrary is proved. In fairness to Magalop, outside of his improvident plea of guilt, there is absolutely no evidence against him – presented or forthcoming. From the evidence of the prosecution, there is no way by which accused Magalop could have been implicated. It is for this fundamental reason that, even *pro hac vice*, his acquittal must be sustained. *Interdum evenit ut exceptio quae prima facie justa videtur, tamen inique noceat*. It may sometime happen that a plea which on its face seem just, nevertheless is injurious and inequitable. It is so in this instance.

WHEREFORE, in view of the foregoing, the petition is DISMISSED for lack of merit and the acquittal of the accused-respondent JUAN MAGALOP Y SALVACION is sustained.

### **SO ORDERED.**

Cruz, J., (Chairman), see concurrence.

Davide, Jr., Quiason, and Kapunan, JJ., concur.

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[1] Annex "C", Rollo, p. 9.

[2] Petition, pp. 3-4.

[3] *People v. Eduarte*, G. R. No. 88232, 26 February 1990, 182 SCRA 750; *People v. Nano*, G. R. No. 94639, 13 January 1992, 205 SCRA 155.

[4] *People v. Formentera*, No. L-30892, 29 June 1984, 130 SCRA 114.

[5] *People v. Balicasan*, No. L-26376, 31 August 1966, 17 SCRA 1119; *People v. Ng Pek*, 81 Phil. 563 (1948).

[6] Rule 116, Sec. 4.

[7] Sec. 5, par. (j), Rule 131, Rules of Court; *People v. Kagui Malasugui*, 63 Phil. 221 (1936).

[8] No. L-26734, 5 September 1967, 21 SCRA 34, 40.

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### CONCURRING OPINION

#### CRUZ, J.:

I am bothered by the improvident plea of guilty made by accused Juan Magalop, presumably upon the advice of his counsel, Atty. Isidro L. Caracol of the CLAO (now the PAO). It would seem that this lawyer was less than conscientious when he advised his indigent client to admit a crime the man did not commit. As the ponencia observes, "outside of his improvident plea of guilt, there is absolutely no evidence against him - presented or forthcoming. From the evidence of the prosecution, there is no way by which Magalop could have been implicated."

It seems to me that if any one is guilty in this case, it is the PAO lawyer who, through an incredible lack of zeal in the discharge of his duties, was apparently willing, without any moral compunctions at all, and without proof, to consign an innocent man to prison.

The PAO is supposed to defend the accused, not to condemn them without cause. The defense counsel in this case did not seem to appreciate this responsibility when he prodded Magalop to plead guilty and waived the right to submit evidence in his behalf.

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