

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MELCHOR ESTOMACA Y GARQUE, ACCUSED-APPELLANT.*G.R. Nos. 117485-86. April 22, 1996*

Ponente: REGALADO, J.

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With our recent adjudgment in *People vs. Alicando*[1] as a backdrop, even an initial perusal of the records of these cases now before us on appeal and/or automatic review gives a sense of paramnesia or, in the French term more often used, *deja vu*. One cannot escape the illusion of remembering events when experienced for the first time, or of something overly or unpleasantly familiar in the present appellate review.

Indeed, the courtroom *dramatis personae* in the cases at bar are the same as in *Alicando*, that is, the presiding judge,[2] the government counsel *de oficio*,[3] and the substitute counsel *de parte*. [4] The cases likewise involve the heinous crime of rape and were repressed by the sentence of death. The crux of the controversy in both is identically the validity *vel non* of the arraignment conducted by the same trial court which followed closely equivalent procedures in conducting the questioned proceedings. Hence, as will hereafter be demonstrated, the observations of this Court will also inevitably converge and move along the same channels of thought.

On May 24, 1994, consequent to five separate complaints, Criminal Cases Nos. 43567, 43568, 43569, 43570 and 43571 were filed in the Regional Trial Court, Branch 38, Iloilo City charging herein appellant, an illiterate laborer, with rape committed on five separate occasions against his own daughter, complainant Estelita Estomaca.

The trial court detailed its findings and the prosecution's contentions on the multiple incestuous rapes, as follows:

Melita is the eldest daughter of the accused, the second husband of Melita's mother. Melita has a full-blood younger brother around twelve (12) years old. She has two (2) half-blood sisters (from) the first marriage of her mother who are residing in Manila.

Melita claims that she was first raped in July 1993, at their residence at Barangay Tiolas, San Joaquin, Iloilo. This is now the subject of Criminal Case No. 43567. The offense was repeated by her father before Christmas of December, 1993 (Criminal Case No. 43568); January 1994 (Criminal Case No. 43569); February 1994 (Criminal Case No. 43570); and on March 6, 1994 (Criminal Case No. 43571). [5]

There is some inconsistency in the statements on record as to what actually took place on June 14, 1994 during the arraignment of appellant, assisted by his government counsel *de oficio*, Atty. Rogelio Antiquiera. The decision of the court below, dated July 15, 1994, declares that he entered a plea of guilty to Criminal Cases Nos. 43568 and 43571, and a plea of not guilty to Criminal Cases Nos. 43567, 43569 and 43570. [6] Obviously engendered by the insufficiency of the proceedings conducted and the imprecision of the notes taken at this stage, this matter will be further discussed hereafter.

The two criminal complaints, both subscribed by the offended party on April 29, 1994 and which are the subject of the joint judgment of the lower court challenged in this appellate review, respectively allege:

Criminal Case No. 43568

That sometime in the month of December, 1993, in the Municipality of San Joaquin, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of his superior strength, abuse of confidence and trust, he being the father of the undersigned, with deliberate intent and by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with the undersigned who, at that time, (was) 15 years of age.[7]

Criminal Case No. 43571

That on or about March 6, 1994, in the Municipality of San Joaquin, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the father of the undersigned complainant, with deliberate intent and by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse (with) the undersigned, who, at that time, (was) 15 years of age.[8]

Proceeding upon the capital nature of the offenses involved, the trial court, after appellant ostensibly waived the presentation of evidence for his defense, required the prosecution to adduce evidence purportedly to establish appellant's guilt beyond reasonable doubt. Thus, on June 29, 1994, the complainant herself, Melita Estomaca, appeared in court and testified that she was raped by her father once in December, 1993 and, again, on March 6, 1994. Both incidents, according to her, took place inside their residence at Sitio Tan-agan, Barangay Tiolas in San Joaquin, Iloilo at nighttime and that, on those two occasions, she tried to resist her father's assaults to no avail. After the last rape, she gathered enough courage to flee from their home, and thereafter she reported the incidents to her mother who was then living separately from them. Apparently, appellant was later apprehended and has since been under detention.[9]

On the authority of Republic Act No. 7659 which took effect on December 31, 1993, the lower court imposed upon appellant the penalty of reclusion perpetua for the sexual assault supposedly perpetrated in December, 1993, and the supreme penalty of death with respect to the rape allegedly committed on March 6, 1994. In each of the said cases, he was further ordered to indemnify the offended party in the amount of P50,000.00 and to pay the costs.[10]

What disconcerts this Court, however, is the alarming consistency of non-compliance by the court a quo of the procedural rules to be observed for the validity of the arraignment of an accused. Indeed, the importance of this particular stage of a criminal proceeding, especially when capital offenses are involved, cannot be over-emphasized. Hence, we pause at this juncture to once again briefly expound on this vital procedural aspect which the trial court, once in *Alicando* and again in the case at bar, appears to have treated with cavalier disregard or frustrating misapprehension.

1. In *People vs. Albert*,^[11] we traced the developmental antecedents which culminated and found expression in reglementary form in Section 3, Rule 116 of the 1985 Rules on Criminal Procedure governing a plea of guilty to a capital offense. We there pointed out that the rationale behind the rule is that courts must proceed with more care where the possible punishment is in its severest form - death - for the reason that the execution of such a sentence is irrevocable and experience has shown that innocent persons have at times pleaded guilty.^[12]

We stressed the need to avoid improvident pleas of guilt since the accused may thereby forfeit his life and liberty without having fully understood the meaning, significance and consequences of his plea.^[13] We lamented the confused application adopted or the apathetic indifference in the application of said rule considering the paramount importance of a valid arraignment, it being the stage where the issues are joined in the criminal action and without which the proceedings cannot advance further or, if held, will otherwise be void. We then enjoined

the trial courts to review and reflect upon the jurisprudential and statutory rules which evolved over time in response to the injustice created by improvident pleas acknowledging guilt, at times belatedly discovered under the judicial rug, if at all.

With exacting certitude, Section 1(a) of Rule 116 requires that the arraignment should be made in open court by the judge himself or by the clerk of court furnishing the accused a copy of the complaint or information with the list of witnesses stated therein, then reading the same in the language or dialect that is known to him, and asking him what his plea is to the charge. The requirement that the reading be made in a language or dialect that the accused understands and knows is a mandatory requirement, just as the whole of said Section 1 should be strictly followed by trial courts. This the law affords the accused by way of implementation of the all-important constitutional mandate regarding the right of an accused to be informed of the precise nature of the accusation leveled at him and is, therefore, really an avenue for him to be able to hoist the necessary defense in rebuttal thereof.[14] It is an integral aspect of the due process clause under the Constitution.

2. For a more graphic illustration, and thereby a clearer appreciation of what actually transpired in the so-called arraignment of appellant in the court below, we quote at length the pertinent transcripts of the stenographic notes taken at that stage, with emphasis on significant portions:

Pros. Nelson Geduspan

: For the prosecution.

Atty. Rogelio Antiquiera

: For the accused. Ready for arraignment.

Court

: The offended party is the daughter.

Interpreter

: (Reading the information/ complaint to the accused in Ilongo/local dialect).

: For Crim. Case No. 43567, the accused, pleads Guilty. For Crim. Case No. 43568, the accused, pleads Guilty. For Crim. Case No. 43569, the accused, pleads Guilty. For Crim. Case No. 43570, the accused, pleads Guilty. For Crim. Case No. 43571, the accused, pleads Guilty.

Court

: What is your educational attainment?

Witness

: I was not able to finish Grade I.

Court

: The court would like to explain to you in your plea of Guilty. If you plead Guilty to these five (5) offenses, definitely, you will have five (5) sentences.

Accused

: Yes, your honor.

Court

: Under the New Law the least most probably would be life sentence.

Accused

: Yes, your honor.

Court

: How old are you now?

Accused

: Forty two.

Court

: Because of this fact you have no chance to get back to the new society and your rights will be affected.

Accused

: I know. That's what they told to me.

Court

: Despite of (sic) this fact you still insist on your plea of guilty in these five cases?

Interpreter

: According to him, he performed only two (2) acts.

Court

: When (were) these two acts performed?

Accused

: December 1993 and March 1994.

Court

: The other cases charged against you (are) not true?

Accused

: It is not true maybe it was committed by her boyfriend then it was charged against me.

Court

: In so far as . . . What is not included in the plea therefore, is the month of July 1993, January 1994 and the month of February 1994. You did not commit these? Why is it that when you were asked you entered a plea of guilty?

Accused

: Because I committed two acts only.

Court

: Why is it that when you were asked you entered a plea of guilty?

Accused

: Because what I recall is that I just committed two acts of rape.

Court

: Not Guilty in the three (3) charges and Guilty in two (2) charges. Does counsel and accused agree to pre-trial conference?

Atty. Antiquiera

: We dispense (with) the pre-trial conference.

Court

: For the two charges (to) which he pleads guilty, the court will receive evidence in order to impose the proper penalty and on the other charges, the court will receive evidence for the prosecution.[15] (Italics and corrections in parentheses ours.)

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At the subsequent hearing, just like what happened in Alicando, the presiding judge went through the same formality of having appellant stand again before him, and this is what transpired:

Court

: Before the court allows the prosecution to present evidence, accused, please come here again. (At this juncture, the accused came near to the court)

Court

: The court informs you as accused that you are charged (with) the crime of rape; under the new law which if you plead guilty, you will be sentence(d) to death penalty, did you understand that?

A

: Yes, Your Honor.

Q

: Despite this warning for the second time by the court to you, do you still insist (o)n your plea of guilty?

A

: Yes, Your Honor.

Q

: Is this plea your voluntary will without force or intimidation from anyone else to include the complaining witness or the family?

A

: No, Your Honor.

Q

: So, therefore, the court will allow you to present evidence if you wis(h) to because you insist (o)n your plea of guilty. Do you intend to present evidence.

A

: No, I will not present evidence.

Court

: Okey, because of this the court will receive evidence of the prosecution. In another case, the last time when arraigned, you admitted that sometime in December, 1993, you likewise raped your daughter, do you still confirm and affirm this?

A

: Yes, Your Honor.

Q

: In this case, because this was committed (i)n December 1993, the penalty here is reclusion perpetua. After learning this as informed to you by the court, do still insist on your plea of guilty?

A

: Yes, I will admit. I did it.

Q

: Do you admit this voluntarily without force, intimidation or physical injuries or mauling on you by anyone whomsoever?

A

: No, Sir.

Q

: In connection with this, therefore, definitely you will be convicted in both cases?

A

: Yes, your honor.

Q

: What is your educational attainment?

A

: Grade I.

Q

:Being Grade I, the court emphasized that you are swayed by your own fashion because of your low education?

A

: I am not.

Q

: In other words, you still insist on your plea of guilty?

A

: Yes, sir.

Court

: Okey, proceed with the presentation of prosecution evidence.

Q

: In this Criminal Case No. 43568, do you intend to present evidence?

A

: No, Your Honor.

Court

: Okey, proceed.[16]

xxx

3. At threshold, what strikes this Court as peculiar is that the arraignment appears to have consisted merely of the bare reading of the five complaints, synthetically and cryptically reported in the transcript, thus: "(Reading the information/complaint to the accused in Ilonggo/local dialect)." Since what was supposed to have been read was stated in the singular, but there were five criminal complaints against appellant, this Court is then left to speculate on whether all five criminal complaints were actually read, translated or explained to appellant on a level within his comprehension, considering his limited education.

Again, on the presumption of correctness, since this Court has no other bearings to steer by, it may be assumed that all five complaints were read since the clerk is supposed to have thereafter announced in cadence and in the consecutive order of cases that appellant pleaded guilty to all the charges. What, however, punctures this possible bubble of regularity is that appellant subsequently declared, and the clerk consequently contradicted her previous recital, that he was not pleading guilty to three of the complaints. This is hardly a respectable and creditable performance in the solemnity of a court trial of five capital offenses.

We cannot, therefore, be persuaded that on this very basic procedure alone, involving just the mechanical process of arraignment outlined in Section 1, there was the necessary degree of compliance by the court below. Other considerations reveal how flawed the supposed arraignment actually was. For instance, there is no showing whether or not appellant or his counsel de oficio was furnished a copy of each complaint with the list of witnesses against him, in order that the latter may duly prepare and comply with his responsibilities. Of more troubling concern is the fact that appellant was not specifically warned that on his plea of guilty, he would definitely and in any event be given the death penalty under the "New Law," as the trial court calls Republic Act No. 7659. He was also not categorically advised that his plea of guilty would not under any circumstance affect or reduce the death sentence as he may have believed or may have been erroneously advised.

Such an erroneous notion on the part of appellant which may have impelled him to plead guilty is not improbable or conjectural, especially when we consider his mental state and the environmental situation. This is precisely what *People vs. Dayot*[17] cautioned against, thus:

A "searching inquiry," under the Rules, means more than informing cursorily the accused that he faces a jail term (because the accused is aware of that) but so also, the exact length of imprisonment under the law and the certainty that he will serve time at the national penitentiary or a penal colony. Not infrequently indeed, an accused pleads guilty in the hope, as we said, of a lenient treatment, or upon a bad advice or promises of the authorities or parties of a lighter penalty should he admit guilt or express "remorse." It is the duty of the judge

to see to it that he does not labor under these, mistaken impressions, x x x. (*Italics supplied*)

Likewise of very serious importance and consequence is the fact that the complaints were supposedly read to appellant in "Ilonggo/local dialect." Parenthetically, there was no statement of record that appellant fully understood that medium of expression. This assumes added significance since Ilonggo, or properly called Hiligaynon, is a regional language,[18] spoken in a major part of Iloilo province, Negros Occidental and, with variations, in Capiz. Within a province or major geographical area using a basic regional language, there may be other local dialects spoken in certain parts thereof. If said indication in the aforequoted portion of the transcript intended to convey that Ilonggo is merely a local dialect and was also the idiom referred to, the same is egregious error; it would be different if "local dialect" was used to denote an alternative and different medium but, inexplicably, without identifying what it was.

The significance of this distinction is found right in the provisions of Section 1(a) of Rule 116 which, cognizant of the aforestated linguistic variations, deliberately required that the complaint or information be read to the accused in the language or the dialect known to him, to ensure his comprehension of the charges. The Court takes judicial notice, because it is either of public knowledge or readily capable of unquestionable demonstration,[19] that in the central and northwestern part of Iloilo province and all the way up to and throughout Antique, including necessarily San Joaquin where the offenses were committed and of which appellant and his family are natives, the local dialect is known as "kinaray-a."

Barring previous exposure to or as a consequence of extended social or commercial intercourse, "kinaray-a" is not readily understandable to nor spoken by those born to the Hiligaynon regional language or who have lived in the areas under its sway for an appreciable period of time. The converse is true for those whose native tongue is the dialect of "kinaray-a," since they are generally not well-versed in Ilonggo, or Hiligaynon. Since all the complaints are not only in English but in technical legal language, we are again at sea as to whether and how the indictments were translated to Ilonggo and/or to "kinaray-a," or that the appellant was truly and honestly made of the charges and, especially, the consequences of his guilty plea thereto. The records are silent and do not reveal anything on this point, nor how the dialogue between the presiding judge and appellant was translated. Yet a man's life is at stake while this Court wrestles with that dilemma created by an omission of official duty.

4. The foregoing discussion brings us to the strict injunction that the trial court must fully discharge its duty to conduct the requisite searching inquiry in such a way as would indubitably show that appellant had made not only a clear, definite and unconditional plea, but that he did so with a well-informed understanding and full realization of the consequences thereof. To ask an accused about his educational attainment and then warn him that he might have admitted the crime because of his poor intelligence is certainly not the logical approach in assaying the sufficiency of his plea of guilty.

In the same manner, a mere warning to him that he could possibly face extreme retribution in the form of death or face a life sentence in jail is not even enough.[20] The trial judge should ascertain and be totally convinced that, for all intents and purposes, the plea recorded has all the earmarks of a valid and acceptable confession upon which an eventual judgment of conviction can stand.[21] Although there is no definite and concrete rule as to how a trial judge may go about the matter of a proper "searching inquiry," it would be well for the court, for instance, to require the accused to fully narrate the incident that spawned the charges against him, or by making him reenact the manner in which he perpetrated the crime, or by causing him to furnish and explain to the court missing details of significance.[22]

The trial court should also be convinced that the accused has not been coerced or placed under a state of duress either by actual threats of physical harm coming from malevolent or avenging quarters and this it can do, such as

by ascertaining from the accused himself the manner in which he was subsequently brought into the custody of the law; or whether he had the assistance of competent counsel during the custodial and preliminary investigations; and, ascertaining from him the conditions under which he was detained and interrogated during the aforesaid investigations. Likewise, a series of questions directed at defense counsel as to whether or not said counsel had conferred with, and completely explained to the accused the meaning of a plea and its consequences, would be a well-taken step along those lines.[23]

Questions of these nature are undoubtedly crucial and no truer is this than in the case of appellant for, again, the original records and rollo of this case now under review are completely bereft of any document or record concerning his apprehension, detention and prior investigation, whether custodial or preliminary. The foregoing circumstances must be taken in addition to the appropriate forewarnings of the consequences of a plea of guilty, as well as the questions by the court regarding the age, educational attainment and socio-economic status of the accused which may reveal contributory insights for a proper verdict in the case.

And, on this latter aspect, we are inclined to quote from Alicando since, as stated in limine the defective arraignment in the cases now before us is virtually a reprise of what the same trial court with its presiding judge did or did not do in that previous case:

Section 3 of Rule 116 which the trial court violated is not a new rule for it merely incorporated the decision of this Court in *People vs. Apduhan Jr.* and reiterated in an unbroken line of cases. The bottom line of the rule is that a plea of guilt must be based on a free and informed judgment. Thus, the searching inquiry of the trial court must be focused on: (1) the voluntariness of the plea; and (2) the full comprehension of the consequences of the plea. The questions of the trial court failed to show the voluntariness of the plea of guilt of the appellant nor did the questions demonstrate appellant's full comprehension of the consequences of the plea. The records do not reveal any information about the personality profile of the appellant which can serve as a trustworthy index of his capacity to give a free and informed plea of guilt. The age, socio-economic status, and educational background of the appellant were not plumbed by the trial court. x x x. (Citations omitted).

It will be readily observed, if one would analyze appellant's responses during his irregular arraignment, that his low intelligence quotient and lack of education combined to deprive him of fully understanding what obviously appeared to him as mysterious rituals and unfamiliar jargons. This was also what happened, and what we duly noted, in *People vs. Albert*, *supra*.

In the transcripts of said proceeding which are earlier quoted extensively, there are italicized portions showing not only the grossly inadequate or ambiguous, if not indifferent, questions of the lower court but also the erratic answers of appellant which are neither responsive nor rational. There is no need to belabor them here since they speak for themselves, but we are not impressed by the formulary questions posed by the lower court while going through the motions of interviewing appellant. The Court would want to stress here, therefore, that the judicial conscience cannot accept as valid a plea of guilty to a charge with a mandatory death penalty when entered by an accused with a befuddled state of mind at an arraignment with reversible lapses in law.

5. Adverting once again to Alicando, we reiterated therein that pursuant to *Binabay vs. People, et al.*, [24] no valid judgment can be rendered upon an invalid arraignment. Since in Alicando the arraignment of appellant therein was void, the judgment of conviction rendered against him was likewise void, hence in fairness to him and injustice to the offended party that case was remanded to the trial court for further proceedings. The case at bar being on all fours with the aforementioned cases on the particular determinant issue, we have perforce to yield to the same doctrine and disposition.

Let it be clearly understood, however, especially by the censorious: This court will not hesitate to impose the capital punishment when all the requisites therefor have been met in accordance with the law of the land. It

cannot, therefore, hold a life forfeit, no matter how despicable the offender, when effective protection for his basic rights was denied because of poverty or ignorance. Nor will the Court render a death sentence just to make a meretricious obeisance to the vengeful call for blood. Judicious verdicts evolve from the privacy of reasoned reflection in chambers and not from the publicity of emotional acclaim on the podium.

WHEREFORE, the judgment of the court a quo in Criminal Cases Nos. 43568 and 43571 convicting accused-appellant Melchor Estomaca y Garque of two crimes of rape is hereby SET ASIDE. Said cases are REMANDED to the trial court for further and appropriate proceedings, with instructions that the same be given appropriate priority and the proceedings therein be conducted with deliberate dispatch and circumspection.

SO ORDERED.

Narvasa, C.J., Padilla, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Hermosisima, Jr., and Panganiban, JJ., concur.

Kapunan and Mendoza, JJ., in the result.

Torres, Jr., J., took no part.

Francisco, J., on leave.

[1] G.R.No. 117487, December 12,1995.

[2] Judge David A. Alfeche, Jr., RTC, Branch 38, Iloilo City.

[3] Atty. Rogelio Antiquiera of the PAO, Department of Justice.

[4] Atty. Jose B. Tiongco.

[5] Original Record, Vol. I, 49.

[6] Ibid., 49-50.

[7] Ibid., 1.

[8] Ibid., 32.

[9] TSN, June 29, 1994, 5-16.

[10] Original Record, 58.

[11] G.R. No. 114001, December 11, 1995.

[12] Citing 14 Am. Jur., Criminal Law, Sec. 271, p. 951.

[13] Citing People vs. Gonzaga, L-48373, January 30, 1984, 127 SCRA 158; People vs. Havana, G.R. No. 68033, July 31, 1991, 199 SCRA 805.

[14] People vs. Alicando, *supra*, Fn. 1.

[15] TSN, June 15, 1994, 2-4.

[16] Ibid., June 29, 1994, 2-3: corrections in parentheses and italics supplied.

[17] G.R. No. 88281, July 20, 1990, 187 SCRA 637.

[18] See Secs. 7 and 8, XIV, Constitution.

[19] Sec. 2, Rule 129, Rules of Court.

[20] People vs. De Luna, G.R. No. 77969, June 22, 1989, 174 SCRA 204.

[21] People vs. Camay, G.R. No. 51306, July 29, 1987, 152 SCRA 401; People vs. Dayot, supra, Fn. 17.

[22] People vs. Dayot, ante.

[23] People vs. Badilla, G.R. No. 69317, September 11, 1985, 138 SCRA 513; People vs. Parba, G.R. No. 63409, May 30, 1986, 142 SCRA 158; People vs. Petalcorin, et al., G.R. No. 65376, December 29, 1989, 180 SCRA 685.

[24] L-3 1008, January 30, 1971, 37 SCRA 445.

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