

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JONATHAN BESONIA, APPELLANT.*G.R. Nos. 151284-85. February 05, 2004*

Ponente: DAVIDE JR., CJ.

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From just a three-page, double-spaced decision[1] of the Regional Trial Court of Iloilo City, Branch 23, emanates the fiat sentencing appellant Jonathan Besonia to two counts of the most severe penalty of death for having committed two counts of murder. The decision leaves much to be desired. More than half of it was devoted to the narration about Besonia's plea of guilty and the consequent searching inquiry conducted by the trial court. After that narration is a statement that he was not authorized to carry the fatal weapon recovered from him, which is immediately followed by the dispositive portion, thus:

In the light of the evidence thus far adduced by the prosecution, both oral, real and documentary and with the attendant qualifying aggravating circumstance of evident premeditation as well as the aggravating circumstance of the use of an unlicensed firearm, the plea of guilty notwithstanding, judgment is hereby rendered finding the accused GUILTY beyond reasonable doubt of the crime of Murder for two (2) counts in Criminal Cases Nos. 00-52307 and 00-52308, hereby sentencing the accused to two (2) counts of the Supreme Penalty of Death, further condemning the said accused to indemnify the heirs of the victims Ernesto Mospa Nieves and Jerry Sampiano the amount of P50,000.00 by way of death compensation and P30,000.00 moral damages in each case.[2]

Besonia was charged with murder in two separate informations docketed as Criminal Cases Nos. 00-52307 and 00-52308. Upon his arraignment on 22 August 2000, Besonia entered a plea of not guilty in each case.[3] Pre-trial was then held, where the following facts were admitted by both the prosecution and the defense:

1. The identities of the victims Ernesto Mospa Nie[l]es and Jerry Sampiano as well as that of the accused Jonathan Besonia;
2. The date and time of the incident, which is June 27, 2000 at 3:30 o'clock in the afternoon;
3. The place of the incident which is at Guzman Street, Mandurriao, Iloilo City;
4. That the weapon used during the incident which resulted to the killing of the victims Ernesto Mospa Nie[l]es and Jerry Sampiano was an unlicensed firearm; and
5. That Jerry Sampiano was a construction worker of the aunt of the accused at the time of the incident.[4]

On 6 March 2001, before the start of the trial, Besonia, through his counsel Atty. Calixto Perez, manifested that he would enter a plea of guilty to the lesser offense of homicide after a medical operation on his gall bladder.[5] Thereafter, the trial court ordered the prosecution to begin presenting its evidence. The prosecution thereupon presented as witnesses Dr. Tito Doromal and SPO1 Ricardo Clarete.

Dr. Tito Doromal, the medico-legal officer who conducted an autopsy on the cadaver of the victim Ernesto Mospa

Nieles, testified that his autopsy findings revealed that Nieles had a bullet wound on the left side of his head and another one on the thoraco-abdominal region at the left side of his body. He declared that the two bullet slugs recovered from the body of Nieles came from a .38 caliber firearm, and that the cause of his death was the laceration of the brain and internal hemorrhage secondary to bullet wounds.[6]

SPO1 Ricardo Clarete, the duly authorized representative of the PNP Firearms and Explosives Division, declared that based on the certification issued by his office after a verification from available records,[7] Besonia was not a licensed or registered holder of a firearm of any kind and caliber.

At the continuation of the trial, Dr. Agustin P. Vencer testified that he examined the other victim Jerry Sampiano at the West Visayas Medical Center on 27 June 2000. Sampiano had gunshot wounds on the right arm, extending to the right lung and liver; and on the right eye, which extended to the respiratory center of the brain.[8] Since Sampiano's abdomen was distended, he was operated on twice. But a day after his second operation, or on 30 June 2000, he expired.

On 29 May 2001, Besonia manifested his desire to enter a plea of guilty to murder. Re-arraignment was then scheduled on 5 June 2001.[9] On his re-arraignment, Besonia pleaded guilty to the two charges of murder.[10] The trial court forthwith conducted a searching inquiry to determine the voluntariness and full comprehension of his plea.[11]

Thereafter, the prosecution presented PO3 Efren Feliprada and PO3 Hilarion Roga, Jr., as additional witnesses to testify on the aggravating circumstance of use of unlicensed firearm in perpetrating the crimes charged.

PO3 Feliprada testified that at about 3:30 p.m. of 27 June 2000 he, together with PO3 Gerardo Jison and PO2 Hagmay Dignadice, responded to a report of a shooting incident in Guzman St., Mandurriao, Iloilo City. Later, while his companions were carrying the body of Sampiano to be brought to the hospital, he gathered information from the bystanders, who readily identified Besonia as the assailant. He was also informed that Besonia boarded a passenger jeep en route to Leon, Iloilo. He and PO2 Dignadice immediately chased the jeep. In Barangay Buhay, Alimodian, they saw Besonia alight. Upon noticing them, Besonia attempted to escape, but to no avail. PO2 Dignadice recovered from Besonia's waist a .38 caliber revolver with marking .38JB,[12] which was loaded with three live ammunition and two empty shells. Thereafter, Besonia was brought to the police station for investigation, and the firearm was submitted to the crime laboratory for gunpowder residue examination.

PO3 Hilarion Roga, the forensic examiner who examined the firearm subject of these cases, testified that he conducted the test fire ballistic examination on the firearm and found that the three live ammunition and two empty shells recovered by the police and submitted for examination came from the same .38 caliber firearm.[13]

When recalled to the witness stand, PO3 Feliprada testified that the firearm examined by PO3 Roga and presented before the trial court was the same firearm recovered from Besonia.[14]

After the prosecution had rested its case, the defense manifested that it would not present any evidence. On 26 June 2001, the trial court promulgated judgment which is now the subject of this automatic review.

In the Appellant's Brief, Besonia, through his new counsel de parte Atty. Jose B. Tiangco, prays for the reversal of the judgment of conviction and his acquittal based on this sole assignment of error:

THE TRIAL COURT ERRED BY VIOLATING THE CONSTITUTIONAL RIGHT OF [THE] ACCUSED NOT TO BE COMPELLED TO TESTIFY AGAINST HIMSELF, AND HAVING SO COMPELLED HIM, RENDERED JUDGMENT SENTENCING HIM TO DEATH.[15]

Besonia argues that the finding of guilt by the trial court was based mainly on his confession, which is

inadmissible for having been obtained in gross violation of his constitutional right against self-incrimination. Moreover, the prosecution endeavored to prove the charges for murder by evidence other than the testimonies of the proclaimed eyewitnesses. In the absence of evidence proving his guilt, he should be acquitted.

On the other hand, the Office of the Solicitor General (OSG) maintains that Besonia's voluntary confession in open court is valid in all respects. There is no indication that he was forced, intimidated, coerced, or lured by anybody into admitting the crimes. His judicial confession is buttressed by the prosecution evidence that the .38 caliber revolver taken from him was the same gun that fired the two slugs recovered from the cadaver of Nieves. However, his admission that he planned the killing a couple of months before its perpetration is insufficient to prove the qualifying circumstance of evident premeditation. Hence, the OSG recommends the downgrading in each case of (1) the crime from murder to homicide, aggravated by the use of an unlicensed firearm, and (2) the penalty from death to an indeterminate sentence of prision mayor in its maximum period, as minimum, to reclusion temporal in its maximum period, as maximum. It also recommends that temperate damages of P10,000 be awarded in each case in favor of the victims' heirs, and that the award of moral damages be increased from P30,000 to P50,000.

In his Reply Brief,[16] Besonia claims that his re-arraignment was "notoriously flawed" in that despite his endeavor to plead guilty to the lesser crime of homicide, the trial court paid no attention to it, thus depriving him of the opportunity to make such plea. Moreover, there is no basis for the recommendation of the OSG to hold Besonia guilty of the lesser crime of homicide because of the failure of the prosecution to prove his guilt and the precise degree of his culpability. The only support for such recommendation is the testimony of Besonia himself, which was obtained in gross violation of his right not to be compelled to testify against himself. He then prays that the judgment in these cases be set aside and that the cases be remanded to the trial court for re-arraignment and further proceedings.

We cannot fault the trial court for not acting on the manifestation of Besonia before the start of the trial on 6 May 2001 that he would plead guilty to the lesser crime of homicide.[17] It must be recalled that the intended change of plea was still subject to a suspensive condition, i.e. after the operation on Besonia's gall bladder, which nobody knew when. The trial court could not afford to hold the trial in abeyance for an indefinite period of time. Besides, under Section 2 of Rule 116 of the Revised Rules of Criminal Procedure, as amended, a plea to a lesser offense that is necessarily included in the crime charged must be with the consent of the offended party and the prosecutor. And as can be gleaned from the use of the word may in the second sentence of that Section, it is discretionary upon the trial court whether to allow him to make such plea. In any case, when two months later, or on 29 May 2001, Besonia again manifested his desire to enter a plea of guilty, but this time, to the crime of murder,[18] the trial court set the re-arraignment to 5 June 2001.

We do not find anything irregular in the re-arraignment on 5 June 2001. It complied with Section 1 of Rule 116 of the Revised Rules of Criminal Procedure, as amended. Before Besonia pleaded guilty to both charges, the two informations for murder were first read and translated to Ilonggo dialect, which was the language known to him.

The two informations, to which Besonia pleaded guilty, allege that the killing was attended by the qualifying circumstance of evident premeditation and the aggravating circumstance of use of an unlicensed firearm, which if proved would warrant the penalty of death. With such a plea of guilty to a capital offense, Section 3, Rule 116 of the Revised Rules of Criminal Procedure will apply. The said Section reads:

Sec. 3. Plea of guilty to capital offense; reception of evidence. — When the 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 shall require the prosecution to prove his guilt and the precise degree of culpability. The accused may present evidence in his behalf.

We have already outlined, as early as in the case of *People v. Camay*,^[19] how compliance with the said rule could be attained by the trial court, thus:

1. The court must conduct a searching inquiry into the voluntariness and full comprehension [by the accused] of the consequences of his plea;
2. The court must require the prosecution to present evidence to prove the guilt of the accused and precise degree of his culpability; and
3. The court must ask the accused whether he desires to present evidence in his behalf, and allow him to do so if he so desires.

A searching inquiry must focus on the voluntariness of the plea and the full comprehension by the accused of the consequences of the plea so that the plea of guilty can truly be said to be based on a free and informed judgment. While there can be no hard and fast rule as to how a judge may conduct a searching inquiry, we declared in *People v. Aranzado*, ^[20] citing a plethora of cases, that it would be well for the court to do the following:

- (1) Ascertain from the accused himself (a) how he was brought into the custody of the law; (b) whether he had the assistance of a competent counsel during the custodial and preliminary investigations; and (c) under what conditions he was detained and interrogated during the investigations. These the court shall do in order to rule out the possibility that the accused has been coerced or placed under a state of duress by actual threats of physical harm coming from malevolent or avenging quarters.
- (2) Ask the defense counsel a series of questions as to whether he had conferred with, and completely explained to, the accused the meaning and consequences of a plea of guilty.
- (3) Elicit information about the personality profile of the accused, such as his age, socio-economic status, and educational background, which may serve as a trustworthy index of his capacity to give a free and informed plea of guilty.
- (4) Inform the accused the exact length of imprisonment or nature of the penalty under the law and the certainty that he will serve such sentence. Not infrequently indeed an accused pleads guilty in the hope of a lenient treatment or upon bad advice or because of 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 the accused does not labor under these mistaken impressions.
- (5) Require the accused to fully narrate the incident that spawned the charges against him or make him reenact the manner in which he perpetrated the crime, or cause him to supply missing details of significance.

Moreover, in some cases,^[21] we ruled that the trial court should also explain to the accused the essential elements of the crime charged, as well as the penalty and civil liabilities.

We quote in full the searching inquiry that was conducted by the trial court, thus:

Q Now Mr. Jonathan Besonia, did anybody threaten[] you so that you will enter plea of guilty to these two (2) charges?

A No, Your Honor.

Q Did anybody offer[] a promise or reward in terms of money or property for you to plead guilty?

A None, Your Honor.

Q Now, do you fully understand the implication of entering into a plea of guilty to the capital offense of Murder?

A Yes, Your Honor.

Q Now, how old are you?

A 28.

Q What is your work, if any?

A In Mindanao.

Q What is your work there?

A What work I could find, I work.

Q Like for example, what kind of work?

A Bodyguard.

Q What is your highest educational attainment?

A Third year high school.

Q Now Mr. Besonia, I will explain to you the elements of Murder as mandated by the Supreme Court that the Court should explain to the accused the elements of the crime. Now, the elements of Murder are: 1) that [a] person was killed; 2) that the accused killed him. In these cases, do you know the persons who were killed, in Crim. Case No. 00-52307?

A Yes, Your Honor.

Q What's the name?

A Ernesto Nieves alias "Maymay."

Q In Crim. Case No. 00-52308, who was the victim, who was killed?

A Jerry Sampiano.

Q Now, who killed these two (2) victims?

A I myself, Your Honor.

Q Now, the Informations in these cases allege that you killed Ernesto Mospa Nieves and Jerry Sampiano with evident premeditation and using an unlicensed firearm. What can you say to that?

A Yes, Your Honor. One thing important there is I killed him.

Q You know the Information alleges evident premeditation to qualify the killing from Homicide to Murder. Evident premeditation means that you have mold [sic] the idea or you entertain[ed] the idea before or you plan[ned] way before in killing the victims, do you understand that?

A It [[was] my plan [for a] long time already to kill them. I just want to let them know.

Q With respect to Ernesto Mospa Nieves, how long before June 27, 2000 when the incident happened did you plan to kill him, how long before?

A Two (2) months.

Q How about in the case of Jerry Sampiano, how long before June 27, 2000 did you plan to kill him?

A The same, Your Honor. Together.

Q Now, are you at liberty to tell the Court why did you plan to kill him?

A Because they planned to kill me so I know their plan that is why I killed them ahead.

Q When were you actually arrested?

A June 27, Tuesday, year 2000.

Q Right in that day?

A After the incident.

Q Now, do you know who was that person who arrested you?

A Yes, Your Honor.

Q Tell the Court.

A Dignadice and Sir Efren.

Q Please give the full name[s] of the arresting officers?

A PO3 Efren Feliprada and PO2 Hagmay Dignadice of Police Precinct 5.

Q Both of them?

A Yes, Your Honor.

Q Of Iloilo City?

A Of Mandurriao.

Q Now Jonathan, how were you arrested by the two (2)?

A Because they are my friends.

Q So you voluntarily surrendered?

A No, they arrested me.

Q When they arrested you, did you resist or not?

A No, Your Honor. I go [sic] with them because they are also my group.

Q After you were arrested, were you investigated or interrogated?

A Yes, Your Honor.

Q Do you know who investigated you? The name of the police officer?

A I know him if I will see him but I forgot the name.

Q Where were you investigated?

A Mandurriao Police Station.

Q When, after you were arrested?

A They brought me to the Police Station.

Q And after you were arrested you were brought to the Police Station where you were investigated?

A After the investigation was conducted, I was put inside the cell.

Q Do you know whether the incident that led to the death of the two (2) victims was recorded in the Police Blotter?

A It was blotted. I was even told by Sir Duco that if it's not blotted they could release me.

Q So you agree [with] the entry in the Police Blotter regarding these cases?

A Yes, Your Honor.

Q The rule specifically provides that if a person commits the crime of Murder using an unlicensed firearm, the penalty is death, do you know that?

A Yes, Your Honor. I [am] even in fact asking [for] a penalty in order to make them happy.

Q So you are asking the Court to impose the death penalty just to make the complainant happy?

A Yes, Your Honor.

Q Whom would you want to please?

A My family, Your Honor. And I will kill them if they will touch my relatives, my family.

Q Now, the law also provides that aside from being sentenced either to a life imprisonment or death, you should also pay compensation to the surviving heirs of the victims in the amount of no less than P50,000.00 each by way of death indemnity, do you know that?

A How could I pay when I am already sentenced. I know, Your Honor.

Q Now, so you are assisted here by Atty. Calixto Perez, your counsel?

A Yes, Your Honor.

COURT:

Now, the Court hereby orders that the accused and counsel be furnished with copy of the Complaint together with the list of witnesses.

Q Now, so you are therefore warned that if you enter[] the plea of guilty to the capital offense, you may be sentenced to death under Rule [sic] 7659 if the evidence of [the] prosecution will warrant that imposition of penalty.

A Yes, Your Honor.

Q I am likewise informing you that your plea of guilty will not affect or reduce the death penalty under Section 20-a of Republic Act 7659?

A Yes, Your Honor.

Q Now, next. You are also informed that after being sentenced guilty [of] the crime of Murder and in the event that the death sentence [would] be imposed upon you before it is implemented you are required to serve or confine at Muntinlupa Penal Colony?

A I know, sir.

Q Now, let us briefly hear again. Now, could you briefly relate to the Court how and why you killed Ernesto Mospa Nieves on June 27, 2000?

A I shot him.

Q Where was he situated when you shot him?

A Inside the compound of the house of my aunt.

Q What weapon did you use in shooting?

A .38 caliber revolver.

Q Who owns that firearm?

A I am the owner of that, Your Honor.

Q Is it licensed in your name?

A No, Your Honor.

Q Was the victim Ernesto Mospa Nieves armed during that time?

A I do not know Your Honor but I know they planned to kill me and since they planned to kill me that means they were also armed.

Q Before you shot Ernesto was there any altercation or argument that ensued between you and Ernesto?

A There was a rumble and fist fight.

Q When you were confined there before this case was filed in Court, were you present during the preliminary investigation before the Fiscal's office?

A Yes, Your Honor.

Q Were you represented by a lawyer during the preliminary investigation?

A A lawyer was given to me Your Honor and it [sic] was already here in Court.

Q How about during the time when you were investigated before the Fiscal's Office, do you know if a lawyer assisted you there?

A

No, Your Honor.

PROS. MADERO:

Atty. Richelle Baldoza, Your Honor.

ACCUSED:

A There was Your Honor, I only forgot.

COURT:

Q Can you recall what is the name of your lawyer before the Fiscal's Office?

A I cannot remember but she is a lawyer. Lady, Your Honor.

Q Can you also tell us briefly how did you shoot Jerry Sampiano and where?

A During that same occasion, Your Honor but Jerry was ahead to fell [sic] down.

Q In the same place?

A Yes, Your Honor.

Q You used the same weapon?

A Yes, Your Honor.

Q Was Jerry Sampiano armed during that time?

A He was armed but I was not able to see it.

Q Did you see his firearm?

A Tucked on his waist but I did not allow him to draw first.

Q Was there any exchange of words or arguments that took place before you shot Jerry Sampiano?

A None, Your Honor. And he was one also who planned to kill me.

Q So it is now clear that you voluntarily is [sic] entering the plea of guilty to these two (2) criminal charges for Murder?

A Yes, sir.

Q And that nobody forced you or threatened you into entering a plea of guilty to these charges?

A None, Your Honor. It is my own decision to make them happy.

Q [sic] The Court is satisfied with your answer and hereby ordered [sic] the prosecution to present their evidence in order to prove the guilt or degree of culpability of the accused for the use of unlicensed firearm.[22]

Clearly, the trial court has substantially followed the aforementioned parameters for the conduct of a searching inquiry.

We cannot subscribe to Besonia's claim that his confession and admissions during the searching inquiry were elicited in violation of his constitutional right not to be compelled to testify against himself. The right against self-incrimination[23] is intended to prevent the State, with all its coercive powers, from extracting from the suspect testimony that may convict him and to avoid a person subjected to such compulsion to perjure himself for his own protection.[24] It does not apply where, as in these cases, the testimony was freely and voluntarily given by the accused himself without any compulsion from the agents of the State. There is nothing in the records that would indicate that Besonia was forced, intimidated, or compelled by the trial court or by anybody into admitting the crimes. At any rate, his plea of guilty and confession or admissions during the searching inquiry cannot be the sole basis for his conviction.

It must be stressed that a plea of guilty is only a supporting evidence or secondary basis for a finding of culpability, the main proof being the evidence presented by the prosecution to prove the accused's guilt beyond reasonable doubt. Once an accused charged with a capital offense enters a plea of guilty, a regular trial shall be conducted just the same as if no such plea was entered.[25] The court cannot, and should not, relieve the prosecution of its duty to prove the guilt of the accused and the precise degree of his culpability by the requisite quantum of evidence. The reason for such rule is 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 the accused might have misunderstood the nature of the charge to which he pleaded guilty, and to ascertain the circumstances attendant to the commission of the crime which may justify or require either a greater or lesser degree of severity in the imposition of the prescribed penalties.

In these cases, the trial court did not comply with the second requisite mentioned in Section 3 of Rule 116 of the Revised Rules of Criminal Procedure, which is to order the prosecution to prove the guilt of the accused and the precise degree of his culpability. It only required the prosecution to present evidence "to prove the guilt or degree of culpability of the accused for the use of [an] unlicensed firearm." Thus, the evidence presented by the prosecution were merely the testimonies of the police officers on the aggravating circumstance of use of unlicensed firearm in the commission of the crime, apart from those of the doctors on the injuries sustained by the

victims. Doubtless, they are insufficient to establish the guilt of Besonia.

It must be noted that among the witnesses listed in the complaint for murder was Mildred Besonia, the aunt of Besonia who was allegedly an eyewitness to the crime and who had executed an affidavit^[26] narrating the shooting incident and identifying the appellant as the perpetrator thereof. On the hearing of 16 April 2001, the trial court ordered the issuance of a subpoena for her to testify in court.^[27] However, she was not made to testify anymore obviously because of the plea of guilt of Besonia.

Worth noting also is that, apart from the Besonia's admissions during the searching inquiry, the only evidence mentioned by the trial court in the decision subject of this automatic review were the testimonies regarding the use of an unlicensed firearm. There was neither a discussion on the guilt of the appellant, the reasons for the appreciation of the qualifying circumstance of evident premeditation, the penalty, and the civil liabilities.

Apparently, the trial court and the prosecution unduly relied on Besonia's plea of guilty and his admissions made during the searching inquiry. The prosecution did not discharge its obligation as seriously as it would have had there been no plea of guilt on the part of Besonia.^[28] Its presentation of its case was lacking in assiduity that is necessarily expected in a prosecution for a capital offense; it was too meager to be accepted as being the standard constitutional due process at work enough to forfeit a human life.^[29] It has been held that where the plea of guilt to a capital offense has adversely influenced or impaired the presentation of the prosecution's case, the remand of the case to the trial court for further proceedings is imperative.^[30]

Additionally, we observe that Besonia's defense counsel Atty. Perez merely performed a lackadaisical and perfunctory representation of the appellant before and during the trial. First, he failed to question before the arraignment the legality of Besonia's arrest, which failure is deemed as a waiver of the right to raise that question once an accused enters a plea. Second, he failed to object to the admissibility of the firearm seized after Besonia's arrest. Third, there is no showing that he advised Besonia of the consequences of his plea of guilty to the crimes of murder. Fourth, he remained silent throughout the searching inquiry. Fifth, he did not cross-examine the police officers,^[31] and his cross-examination of the two doctors was limited to only two questions each.^[32] Lastly, he did not present any evidence on behalf of Besonia. These are all indicative of his failure to effectively provide Besonia with qualified and competent representation. His behavior irrefutably falls short of the demanding mandate required of a lawyer to defend an accused no matter how guilty the latter may seem to be. In short, his deportment evinces an apparent disregard of his fidelity to his oath as a lawyer and responsibility as an officer of the court to aid in the administration and dispensation of justice.

Enlightening is the Court's discourse on a counsel's avowed passionate dedication and resolve in his duty, viz.:

... The right to counsel proceeds from the fundamental principle of due process which basically means that a person must be heard before being condemned. The due process requirement is a part of a person's basic rights; it is not a mere formality that may be dispensed with or performed perfunctorily.

The right to counsel must be more than just the presence of a lawyer in the courtroom or the mere propounding of standard questions and objections. The right to counsel means that the accused is amply accorded legal assistance extended by a counsel who commits himself to the cause for the defense and acts accordingly. The right assumes an active involvement by the lawyer in the proceedings, particularly at the trial of the case, his bearing constantly in mind of the basic rights of the accused, his being well-versed on the case, and his knowing the fundamental procedures, essential laws and existing jurisprudence. The right of an accused to counsel finds substance in the performance by the lawyer of his sworn fidelity to his client. Tersely put, it means an efficient and truly decisive legal assistance and not a simple perfunctory representation. ^[33]

We reiterate that the constitutional behest that no person shall be deprived of life, liberty, or property without due

process of law is solemn and inflexible. Absolute heedfulness of this constitutional injunction is most pronounced in criminal cases where the accused is in the gravest jeopardy of losing his life. It constantly behooves the courts to proceed with utmost care in each and every case before them; but perhaps nothing can be more demanding of judges in that respect than when the punishment is in its severest form — death — a penalty that, once carried out, is irreversible and irreparable.[34]

Therefore, given the attendant circumstances, we are constrained to remand these cases to the court a quo for further reception of evidence. No matter how outrageous the crimes charged might be or how depraved the offender would appear to be, the uncompromising demand of due process and of the rule of law must still prevail.[35]

WHEREFORE, the decision of the Regional Trial Court of Iloilo City, Branch 23, in Criminal Cases Nos. 00-52307-08, finding appellant Jonathan Besonia guilty of two counts of murder and sentencing him to suffer the penalty of death in each case is hereby SET ASIDE, and Criminal Cases Nos. 00-52307 and 00-52308 are hereby ordered REMANDED to the trial court for further reception of evidence and rendition of a new judgement.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., and Tinga, JJ., concur.

Azcuna, J., on official leave.

[1] Original Record (OR), 146-148. Per Judge Tito G. Gustilo.

[2] OR, 146-148.

[3] Id., 15-16

[4] Id., 43-44.

[5] TSN, 6 March 2001, 2.

[6] TSN, 6 March 2001, 5-15.

[7] Id., 17-24.

[8] TSN, 16 April 2001, 2-9.

[9] OR, 102.

[10] Id., 121-A.

[11] TSN, 5 June 2001, 5-14.

[12] Id., 16-21.

[13] TSN, 18 June 2001, 8-9.

[14] TSN, 18 June 2001, 11.

[15] Rollo, 31.

[16] Rollo, 107-112.

[17] TSN, 6 March 2001, 2.

[18] OR, 102.

[19] L-51306, 29 July 1987, 152 SCRA 401.

[20] 418 Phil. 125 (2001).

[21] *People v. Bella*, G.R. Nos. 130411-14, 13 October 1999, 316 SCRA 804; *People v. Molina*, G.R. Nos. 141129-33, 14 December 2001, 372 SCRA 378.

[22] TSN, 5 June 2001, 5-14.

[23] Sec. 17, Art. III, 1987 Constitution.

[24] See ISAGANI A. CRUZ, *CONSTITUTIONAL LAW* 298 (1998).

[25] DAVID G. NITAFAN, *ARRAIGNMENT IN SERIOUS OFFENSES*, 251 SCRA 161, 172 (1995).

[26] Exh. "S," Roll of Exhibits, 20.

[27] TSN, 16 April 2001, 19.

[28] *People v. Abapo*, 385 Phil. 1175 (2000).

[29] See *People v. Molina*, *supra* note 21.

[30] *Id.*; *People v. Abapo*, *supra*.

[31] TSN, 6 March 2001, 24; TSN, 18 June 2001, 10, 13.

[32] TSN, 6 March 2001, 16; TSN, 16 April 2001, 18.

[33] *People v. Aranzado*, *supra* note 20, at 143.

[34] *People v. Aranzado*, *supra* note 20.

[35] *People v. Tizon*, 375 Phil. 1069 (1999); *People v. Bascuguin*, 418 Phil. 209 (2001).

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