Republic of the Philippines
Supreme Court
Manila

EN BANC

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee,	**G.R. No. 241257**
	Present:
- versus -	PERALTA, *C.J.*, PERLAS-BERNABE, LEONEN, CAGUIOA,* GESMUNDO, HERNANDO, CARANDANG, LAZARO-JAVIER, INTING, ZALAMEDA, LOPEZ, DELOS SANTOS,* GAERLAN, and BALTAZAR-PADILLA,** *JJ.*
BRENDO P. PAGAL ***a.k.a.*** **"DINDO,"** Accused-Appellant.	Promulgated: September 29, 2020

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DECISION

GESMUNDO, *J.*:

> *"For there is but one essential justice which cements society, and one law which establishes this justice. This law is right reason, which is the true rule of all commandments and prohibitions. Whoever neglects this law, whether written or unwritten, is necessarily unjust and wicked."*[1]
>
> — Marcus Tullius Cicero

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* On Official Leave.

**On Leave.

[1] Marcus Tullius Cicero, *On the Laws*, Seton University (last visited October 2, 2020), http://pirate.shu.edu/~knightna/westciv1/cicero.htm.

> *"In addition, the Court remains mindful of the fact that the State possesses vast powers and has immense resources at its disposal. Indeed, as the Court held in Secretary of Justice v. Lantion, the individual citizen is but a speck of particle or molecule vis-à-vis the vast and overwhelming powers of government and his only guarantee against oppression and tyranny are his fundamental liberties under the Bill of Rights which shield him in times of need."*[2]

This is an *appeal* from the Decision[3] promulgated on May 8, 2018 by the Court of Appeals *(CA)* in CA-G.R. CR-HC No. 01521, which annulled and set aside the October 5, 2011 Order[4] of the Regional Trial Court of Hilongos, Leyte, Branch 18 *(RTC)* that found Brendo P. Pagal *(accused-appellant)* guilty beyond reasonable doubt of murder solely based on his plea of guilty. Accused-appellant was sentenced to suffer the penalty of *reclusion perpetua.* On appeal, the CA did not rule on the merits of the case but remanded it to the RTC for further proceedings.

The Antecedents

Accused-appellant was indicted under an Information dated July 10, 2009, the delictual allegations of which reads:

> *That on or about December 15, 2008, in Brgy. Esperanza, Matalom, Leyte, within the jurisdiction of this Honorable Court, the said accused, with intent to kill, did then and there, [willfully], unlawfully, feloniously, with treachery and taking advantage of superior strength, without any justifiable reason whatsoever, stabbed Selma Pagal, with a sharp bladed weapon, wounding her at the back penetrating the chest, thereby causing [her] direct and immediate death.*
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> *CONTRARY TO LAW.*[5]

During his arraignment on August 20, 2009, accused-appellant pleaded "*guilty*" to the crime charged. The RTC found the plea to be voluntary and with full understanding of its consequences. Thus, it directed the prosecution to present evidence to prove the guilt of accused-appellant and to determine the exact degree of his culpability in accordance with

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[2] *People v. Solar*, G.R. No. 225595, August 6, 2019.
[3] *Rollo*, pp. 4-11; penned by Associate Justice Gabriel T. Robeniol with Associate Justices Gabriel T. Ingles and Marilyn B. Lagura-Yap, concurring.
[4] Records, pp. 60-62; penned by Judge Ephrem S. Abando.
[5] Id. at 10.

Section 3,[6] Rule 116[7] of the 2000 Revised Rules of Criminal Procedure *(2000 Revised Rules)*.[8]

In its August 20, 2009 Order, the RTC, in specific recognition of the duties imposed by Sec. 3 of Rule 116, stated that "WHEREFORE, premise considered and in consonance to the rules as to the plea of guilty to the capital offense, let the trial and presentation of first prosecution witness to determine the culpability of the accused on May 5, 2010 at 8:30 o'clock in the morning session of this Court."[9] On February 24, 2010, it issued a subpoena to Angelito Pagal, Cesar Jarden,[10] and Emelita Calupas to appear and testify before it on the said date.[11]

On November 22, 2010, the RTC issued another subpoena directed to Angelito Pagal to appear before it on February 22, 2011 at 8:30 in the morning.[12] This was received by a certain Malima Pagal and Angelito Pagal on December 15, 2010.[13] On January 12, 2011, Subpoena/Warrant Server SPO1 Antonino R. Cabal PNP certified that the subpoena was duly served and received.[14]

In the February 22, 2011 Order, the RTC noted that "[s]upposed witness is Angelito P. Pagal who was subpoenaed by this court and properly served upon his person. However, his absence is very conspicuous to this court. The prosecution is so desirous to present prosecution witnesses to determine the culpability of the accused who readily pleaded guilty to the crime charged, requested that other witnesses be subpoenaed for them to testify in court in the event that Angelito Pagal could not come to court on the next setting."[15] It then set the trial and presentation of any prosecution witness on May 11, 2011 at 8:30 in the morning. It ordered a repeat subpoena be issued to Angelito Pagal, Cesar G. Jarden and Jaimelito Calupas.[16]

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[6] SECTION 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.

[7] Entitled *Arraignment and Plea.*

[8] *Rollo,* p. 5.

[9] Records, p. 22.

[10] Referred to as "Jardin" in some parts of the records.

[11] Records, pp. 24, 26 and 28.

[12] Id. at 35 and 39.

[13] Id. at 39.

[14] Id. (back of the page).

[15] Id. at 41.

[16] Id.

The repeat subpoena was issued to said prosecution witnesses on March 4, 2011. Included in the subpoena was Dr. Radegunda Uy, RHU, LGU, Matalom, Leyte.[17] This was duly received by all four (4) subpoenaed witnesses as indicated in the receiving copy.[18] On April 11, 2011, Subpoena/Warrant Server SPO1 Antonino R. Cabal PNP certified that the subpoena was duly served and received by all four subpoenaed witnesses.[19]

In its May 11, 2011 Order, the RTC once more noted that "[t]he prosecution is serious enough to prove the degree of culpability of the accused Brendo Pagal who pleaded guilty to the crime charged of murder but for several times there were absences made by the prosecution witness despite proper service of subpoena or notices. The prosecution on this situation requested for a resetting and in the event no prosecution witness would appear and testify, this case is submitted to the x x x discretion of this court inviting the degree of culpability."[20] The RTC then set the trial and presentation of prosecution witnesses on July 20, 2011 at 8:30 o'clock in the morning. It sent another repeat subpoena to Angelito Pagal, Cesar Jarden, and Dr. Radegunda Uy.[21] On June 8, 2011, the RTC issued the repeat subpoena to said three witnesses and also included Jaimelito Calupas therein.[22] This was received by Angelito Pagal, Elesia Jarden on behalf of Cesar Jarden, "Teresita" Calopay on behalf of Jaimelito Calupas, and by Dr. Radegunda Uy as shown by the receiving copy.[23]

In its July 20, 2011 Order, the RTC stated that "[t]he prosecution after having exerted its effort to present any prosecution witness in determining the degree of culpability of the accused who pleaded guilty to the crime charged, has no one to be presented. On this matter, the prosecution now submitted the case for decision and as joined by the defense who has also no witness to be presented."[24]

As detailed above, none of the prosecution witnesses appeared and testified on the scheduled hearing dates of November 17, 2010; February 22, 2011; May 11, 2011; and July 20, 2011 for the presentation of the prosecution's evidence despite repeat subpoenas duly issued and received by them. The defense chose not to present any evidence in view of the prosecution's non-presentation. Both the prosecution and the defense moved for the submission of the case for decision.[25]

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[17] Id. at 43.
[18] Id. at 46.
[19] Id. (back of the page).
[20] Id. at 48.
[21] Id.
[22] Id. at 50.
[23] Id. at 52.
[24] Id. at 54.
[25] *Rollo*, p. 5.

The Ruling of the RTC

In its October 5, 2011 Order, the RTC found accused-appellant guilty beyond reasonable doubt based solely on his plea of guilty. It stated that accused-appellant maintained his plea despite being apprised that he will be sentenced and imprisoned on the basis thereof.[26]

The dispositive portion of the RTC Order[27] reads:

> **WHEREFORE,** in view of the foregoing, accused BRENDO P. PAGAL alyas "DINDO" is hereby found **GUILTY** beyond reasonable doubt and sentenced to suffer the imprisonment of **RECLUSION PERPETUA**. And to pay the heirs of SELMA PAGAL ₱50,000.00 as indemnification and ₱50,000.00 as moral damages.
>
> In the service of his sentence, accused is hereby credited with the full time of his preventive imprisonment if he agreed to abide by the same disciplinary rules imposed upon convicted prisoners, otherwise, he will only be entitled to 4/5 of the same.
>
> **SO ORDERED.**[28]

Accused-appellant appealed the RTC Order to the CA and raised this singular error committed by the lower court, *viz.:*

> THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED SOLELY ON THE BASIS OF THE LATTER'S PLEA OF GUILT AND DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[29]

The Ruling of the CA

The CA annulled and set aside the October 5, 2011 Order of the RTC and remanded the case for further proceedings in accordance with the guidelines to be observed in the proper conduct of a searching inquiry as required by Sec. 3, Rule 116 of the 2000 Revised Rules.[30]

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[26] CA *rollo*, pp. 39-40.
[27] It must be noted that the dispositive portion did not identify the felony to which the accused was found guilty of.
[28] CA *rollo*, p. 40.
[29] Id. at 29.
[30] *Rollo*, p. 11.

The CA held that the RTC failed to comply with the requirements of Sec. 3, Rule 116 regarding the treatment of a plea of guilty to a capital offense, particularly the conduct of a searching inquiry into accused-appellant's voluntariness and full comprehension of the consequences of his plea. Also, the CA observed that the prosecution's evidence was insufficient to sustain a judgment of conviction independent of the plea of guilty. In fact, the CA noted that the prosecution did not present any evidence; thus, it remanded the case to the RTC with a directive that it follow the mandate of Sec. 3, Rule 116.[31]

Hence, this recourse.

The Petition Before the Court

On September 26, 2018, the Court issued a Resolution[32] to the parties that they could file their respective supplemental briefs, if they so desired, within thirty (30) days from notice. Both parties manifested that they would adopt their respective briefs before the CA.

Accused-appellant maintains that the RTC erred in convicting him on the sole basis of his guilty plea despite the failure of the prosecution to prove his guilt beyond reasonable doubt. He points to the fact that the prosecution was given numerous opportunities to present its evidence yet still failed to do so. He emphasizes that there is no evidence in support of his conviction except for his guilty plea. Considering that the prosecution failed to prove his guilt, the RTC should have dismissed *motu proprio* the action on the basis of insufficiency of evidence. He cites the case of *People v. Janjalani (Janjalani),*[33] where the Court stated that "[c]onvictions based on an improvident plea of guilt are set aside only if such plea is the sole basis of the judgment."[34] He concludes that since his conviction was based solely on his improvident plea of guilt, the RTC should have acquitted him. Lastly, he also invokes the equipoise rule: since neither the prosecution nor the defense presented any evidence, the law should be tilted in his favor.[35]

The Ruling of the Court

Accused-appellant's arguments are meritorious.

This Court sets aside the CA's order of remand. Dictates of constitutionally guaranteed fundamental rights mandate this course of action.

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[31] Id. at 7-11.
[32] Id. at 22-23.
[33] 654 Phil. 148 (2011).
[34] Id. at 161.
[35] CA *rollo*, pp. 29-38.

Accused-appellant availed of the wrong remedy

Procedurally, it must be noted that accused-appellant availed of the wrong remedy in questioning the May 8, 2018 CA Decision before this Court.

He filed a notice of appeal pursuant to Sec. 13(c), Rule 124 of the 2000 Revised Rules of Court, as amended by A.M. No. 00-5-03-SC, which provides:

> SECTION 13. Certification or Appeal of Cases to Supreme Court. —
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> x x x x
>
> (c) **In cases where the Court of Appeals imposes *reclusion perpetua*, life imprisonment or a lesser penalty**, it shall render and enter judgment imposing such penalty. **The judgment may be appealed to the Supreme Court by notice of appeal filed with the Court of Appeals**.

Here, the CA Decision annulled and set aside the RTC conviction and ordered the remand of the case to the RTC for further proceedings. Notably, the assailed CA Decision did not affirm the conviction or the penalty imposed by the RTC. Thus, Sec. 13(c), Rule 124 is not applicable to the case at bench.

Instead, accused-appellant should have filed an appeal by *certiorari* under Rule 45 of the Rules of Civil Procedure to assail the CA Decision pursuant to Sec. 3(e), Rule 122 of the 2000 Revised Rules, which expressly provides that "[e]xcept as provided in the last paragraph of Sec. 13, Rule 124, all other appeals to the Supreme Court shall be by petition for review on *certiorari* under Rule 45."

Accordingly, the remedy available to accused-appellant to question the CA Decision is an appeal by *certiorari* under Rule 45 of the Rules of Civil Procedure. It is an oft-repeated rule that appeals of criminal cases shall be brought to the Court by filing a petition for review on *certiorari* under Rule 45 of the Rules of Court except when the CA imposed a penalty of *reclusion perpetua* or life imprisonment, in which case the appeal shall be made by a mere notice of appeal before the CA.[36] Evidently, accused-appellant availed of the wrong remedy when it filed a notice of appeal to question the May 8, 2018 CA Decision.

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[36] *Arambullo v. People*, G.R. No. 241834, July 24, 2019.

Nonetheless, this Court, in the interest of substantial justice, shall treat the instant ordinary appeal as an appeal by *certiorari* so as to resolve the substantive issues with finality.

The evolution of the duty of trial courts in instances where the accused pleaded guilty to a capital offense

Accused-appellant was charged with murder, defined and penalized under Article 248 of the Revised Penal Code (*RPC*). Murder is punishable by *reclusion perpetua* to death, making said crime a capital offense.[37]

It must be noted that murder remains a capital offense despite the proscription against the imposition of death as a punishment.[38] In *People v. Albert,*[39] the Court ruled that "in case death was found to be the imposable penalty, the same would only have to be reduced to *reclusion perpetua* in view of the prohibition against the imposition of the capital punishment, but the nature of the offense of murder as a capital crime, and for that matter, of all crimes properly characterized as capital offenses under the Revised Penal Code, was never tempered to that of a non-capital offense."[40]

Thus, when accused-appellant pleaded guilty during his arraignment, he pleaded to a capital offense. Sec. 3, Rule 116 of the 2000 Revised Rules is relevant, *viz.:*

> SECTION 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.

Interestingly, the rule encapsulated in Sec. 3, Rule 116 was not the rule prior to the advent of the 1985 Rules on Criminal Procedure. The evolution of the rule reveals a dichotomy which the Court now addresses. The development of the rule, as well as jurisprudence, dictates a just resolution of the case.

Even prior to the adoption of the 1940 Rules of Court, jurisprudence has had to grapple with instances where an accused pleaded guilty to a

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[37] SECTION 6. *Capital offense, defined.* — A capital offense is an offense which, under the law existing at the time of its commission and of the application for admission to bail, may be punished with death. (Rule 114, Revised Rules on Criminal Procedure)
[38] *People v. Albert*, 321 Phil. 500, 508 (1995).
[39] Id.
[40] Id. at 508.

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capital offense. In such instances, the Court maintained a policy of restraint in rendering judgment on the sole basis of such plea.

As early as 1903, in *U.S. v. Patala,*[41] the Court cautioned against the acceptance of pleas of guilty and opined that the trial judge should freely exercise his discretion in allowing pleas of guilty to be withdrawn if the accused does not fully realize the probable effects of his admission:

> The pleas of "guilty" and "not guilty" as accepted in American law were unknown to the Spanish law. Under the Spanish law there was what was called "judicial confession," whereby the accused admitted the commission of the act alleged in the complaint, but by so doing the defendant did not attempt to characterize the act as criminal, as is the case with a defendant who pleads "guilty" under American law. It also appears that there are no words in the Tagalog or Visayan dialects which can express exactly the idea conveyed by the English word "guilty." In a case of homicide, for instance, when the question is put to the defendant in either of these two dialects as to whether he is guilty or not guilty, he is asked whether he killed the deceased or not. If he answers that he did kill the deceased, he merely admits that he committed the material act which caused the death of the deceased. He does not, however, understand it to be an admission on his part that he has no defense and must be punished. The case at bar serves to illustrate this fact. Under these circumstances, we are of opinion that the trial judge should freely exercise his discretion in allowing the plea of "guilty" to be withdrawn; indeed, he must, on his own motion, order that it be withdrawn if, in his opinion, the accused does not fully realize the probable effect of his admission.[42]

Again, in the 1917 case of *U.S. v. Jamad (Jamad),*[43] this Court noted that "[n]otwithstanding the plea of 'guilty,' several witnesses were examined, under the well-settled practice in this jurisdiction which contemplates the taking of additional evidence in cases wherein pleas of 'guilty' are entered to complaints or information charging grave crimes, and more especially crimes for which the prescribed penalty is death."[44] Hence, the following guidelines were adopted:

> We may say then, in response to the request for a ruling on this subject by the Attorney-General:
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> (1) The essence of the plea of guilty in a criminal trial is that the accused, on arraignment, admits his guilt freely, voluntarily, and with full knowledge of the consequences and meaning of his act, and with a clear understanding of the precise nature of the crime or crimes charged in the complaint or information.

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[41] 2 Phil. 752 (1903).
[42] Id. at 755.
[43] 37 Phil. 305 (1917).
[44] Id. at 307-308.

> (2) Such a plea of guilty, when formally entered on arraignment, is sufficient to sustain a conviction of any offense charged in the information, even a capital offense, without the introduction of further evidence, the defendant having himself supplied the necessary proof.
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> (3) There is nothing in the law in this jurisdiction which forbids the introduction of evidence as to the guilt of the accused, and the circumstances attendant upon the commission of the crime, after the entry of a plea of "guilty."
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> (4) Having in mind the danger of the entry of improvident pleas of "guilty" in criminal cases, the prudent and advisable course, especially in cases wherein grave crimes are charged, is to take additional evidence as to the guilt of the accused and the circumstances attendant upon the commission of the crime.
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> (5) The better practice would indicate that, when practicable, such additional evidence should be sufficient to sustain a judgment of conviction independently of the plea of guilty, or at least to leave no room for reasonable doubt in the mind of either the trial or the appellate court as to the possibility of a misunderstanding on the part of the accused as to the precise nature of the charges to which he pleaded guilty.
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> (6) Notwithstanding what has been said, it lies in the sound judicial discretion of the trial judge whether he will take evidence or not in any case wherein he is satisfied that a plea of "guilty" has been entered by the accused, with full knowledge of the meaning and consequences of his act.
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> (7) But in the event that no evidence is taken, this court, if called upon to review the proceedings had in the court below, may reverse and send back for a new trial, if, on the whole record, a reasonable doubt arises as to whether the accused did in fact enter the plea of "guilty" with full knowledge of the meaning and consequences of the act.[45]

From the foregoing, it is evident that this jurisdiction places a premium on ensuring that an accused pleading guilty to a grave crime understands his plea and the possible consequences thereof. Further, this Court expressly recognized the wisdom in receiving evidence in such cases despite the fact that Sec. 31[46] of General Order No. 58[47] contemplated the reception of evidence only in cases where a plea of not guilty has been entered.

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[45] Id. at 317-318.

[46] SECTION 31. The plea of not guilty having been entered, the trial must proceed in the following order:

1. The counsel for the United States must offer evidence in support of the charges.
2. The defendant or his counsel may offer evidence in support of the charges.
3. The parties may then respectively offer rebutting testimony, but rebutting testimony only, unless the court, in furtherance of justice, permit them to offer new and additional evidence bearing upon the main issue in question.
4. When the introduction of testimony shall have been concluded, unless the case is submitted to the court without argument, the counsel for the United States must open the argument, the counsel for the defence must follow, and the counsel for the United States may conclude the same. The argument by either counsel may be oral or written, or partly oral and partly written, but only the written arguments, or such portions of the same as may be in writing shall be preserved in the records of the case.

[47] CODE OF CRIMINAL PROCEDURE OF THE PHILIPPINE ISLANDS, April 23, 1900.

The *Jamad* guidelines became the standard for trial courts when confronted with similar circumstances. It must be noted, however, that the reception of evidence in cases where the accused pleads guilty remained discretionary on the part of the trial court. In fact, convictions solely on the basis of a plea of guilty were upheld by this Court.

In *U.S. v. Burlado,*[48] this Court affirmed therein accused's conviction for the crime of qualified theft on the strength of his plea of guilty. The Court explained that "[a] plea of guilty, when formally entered on arraignment, is sufficient to sustain a conviction of any offense charged in the information without the introduction of further evidence, the defendant himself having supplied the necessary proof by his plea of guilty. (*United States v. Dineros,* 18 Phil. 566 (1911); *United States v. Jamad,* 37 Phil. 305 (1917).) ***The defendant having admitted his guilt of the facts charged in the complaint, the only question left for decision is the penalty.***"[49]

The 1940 Rules of Court, the earliest progenitor of the 2000 Revised Rules, extended the same level of protection. Sec. 5, Rule 114 of the 1940 Rules of Court reads:

> SECTION 5. *Plea of Guilty — Determination of Punishment.* — Where the defendant pleads guilty to a complaint or information, if the court accepts the plea and has discretion as to the punishment for the offense, it may hear witnesses to determine what punishment shall be imposed.[50]

The 1964 version of the Rules of Court reproduced this section *verbatim.*[51] Thus, when an accused pleads guilty to a capital offense, the court may hear witnesses for purposes of determining the punishment to be imposed; the guilt of the accused was a forgone conclusion. The rule seemed to institutionalize *Jamad* as shown by the discretionary nature of the hearing.

Accordingly, in *People v. Ng Pek,*[52] this Court stated that "[t]he record shows that when the case was called for the arraignment of the accused on November 3, 1947, the accused waived his right to be assisted by counsel and then and there entered the plea of guilty. ***That plea necessarily foreclosed the right of the accused to defend himself and left***

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[48] 42 Phil. 72 (1921).
[49] Id. at 74. (emphasis supplied)
[50] 1940 RULES OF COURT, Rule 114. The provision was lifted from Section 229, Criminal Proc. Of the American Law Institute, per Moran, *Comments on the Rules of Court,* Rev. Ed. 1952, Vol. II, p. 829.
[51] 1964 RULES OF COURT, Rule 118, Sec. 5.
[52] 81 Phil. 562 (1948).

the court with no other alternative than to impose the penalty prescribed by law."[53]

In the same breath, the Court, in *People v. Santa Rosa,*[54] upheld the conviction of therein accused for illegal possession of a firearm due to his plea of guilty. It stated that "[t]he general rule is that 'a plea of guilty when formally entered on arraignment is sufficient to sustain a conviction of any offense charged in the information without the introduction of further evidence, the defendant himself having supplied the necessary proof by his plea of guilty.'"[55]

Finally, in *People v. Acosta,*[56] which involved the imposition of the supreme penalty of death for the crime of robbery with homicide, this Court upheld the conviction and penalty imposed and stated that:

> "x x x the essence of the plea of guilty in a criminal trial is that the accused, on arraignment, admits his guilt freely, voluntarily and with 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 information; that when formally entered, such a plea is sufficient to sustain a conviction of any offense charged in the information, even a capital offense, without the introduction of further evidence, the defendant having himself supplied the necessary proof; and that while it may be prudent and advisable in some cases, especially where grave crimes are charged, to take additional evidence as to the guilt of the accused and the circumstances attendant upon the commission of the crime nevertheless it lies in the sound discretion of the court whether to take evidence or not in any case where it is satisfied that the plea of guilty has been entered by the accused with full knowledge of the meaning and consequences of his act. (citations omitted)"[57]

Clearly, to this point, the reception of evidence when an accused pleads guilty depended on the sound discretion of the trial court.

However, the 1985 Rules on Criminal Procedure *(1985 Rules)* introduced a paradigm shift to the formerly discretionary role of trial courts when an accused pleads guilty to a capital offense. The 1985 version of the rule,[58] as amended, reads:

> SECTION 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

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[53] Id. at 563.
[54] 88 Phil. 487 (1951).
[55] Id. at 489. (emphasis supplied)
[56] 98 Phil. 642 (1956).
[57] Id. at 644-645.
[58] 1985 RULES ON CRIMINAL PROCEDURE, Rule 116.

> 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. (5a, R-118)

The 2000 Revised Rules retained the salient points of the 1985 amendment. Hence, at present, the three (3)-fold duty of the trial court in instances where the accused pleads guilty to a capital offense is as follows: (1) conduct a searching inquiry, (2) require the prosecution to prove the accused's guilt and precise degree of culpability, and (3) allow the accused to present evidence on his behalf.

The present rules formalized the requirement of the conduct of a searching inquiry as to the accused's voluntariness and full comprehension of the consequences of his plea. Further, it made mandatory the reception of evidence in cases where the accused pleads guilty to a capital offense. Most importantly, the present rules require that the prosecution prove beyond reasonable doubt the guilt of the accused. Evidently, starting with the 1985 Rules, the accused may no longer be convicted for a capital offense on the sole basis of his plea of guilty.

The Court acknowledged the paradigm shift in *People v. Lagarto*,[59] thus:

> Section 5, Rule 118 of the old Rules of Court provides that "Where the defendant pleads guilty to a complaint or information, if the trial court accepts the plea and has discretion as to the punishment for the offense, it may hear witnesses to determine what punishments shall be imposed." The trial court in a criminal case may sentence a defendant who pleads guilty to the offense charged in the information, without the necessity of taking testimony. *(US vs. Talbanos, 6 Phil. 541).* Yet, it is advisable for the trial court to call witnesses for the purpose of establishing the guilt and the degree of culpability of the defendant. *(People vs. Comendador, supra)* **The present Revised Rules of Court, however, decrees that where the accused pleads guilty to a capital offense, it is now mandatory for the court to require the prosecution to prove the guilt of the accused and his precise degree of culpability, with the accused being likewise entitled to present evidence to prove, *inter alia,* mitigating circumstances** (See *People vs. Camay*, 152 SCRA 401; Section 3, Rule 116 of Rules of Court).[60] (emphasis supplied)

It is equally important to note that the 1985 Rules retained the directive that the reception of evidence in cases where the accused pleads guilty to a non-capital offense is discretionary on the part of the trial court.

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[59] 274 Phil. 11 (1991).
[60] Id. at 18-19.

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This is encapsulated in Sec. 4, Rule 116 of the 1985 Rules.[61] The 2000 Revised Rules adopted Sec. 4, Rule 116 of the 1985 Rules *verbatim.*

Considering the mandatory nature of Sec. 3, Rule 116 of the 2000 Revised Rules, this Court, in *People v. Gambao (Gambao),*[62] restated the duties of the trial court when the accused pleads guilty to a capital offense as follows:

> (1) to conduct a searching inquiry into the voluntariness and full comprehension of the consequences of the plea of guilt,
>
> (2) to require the prosecution to still prove the guilt of the accused and the precise degree of his culpability, and
>
> (3) to inquire whether or not the accused wishes to present evidence in his behalf and allow him to do so if he desires.[63]

Gambao also explained the rationale for these duties, thus:

> Courts must proceed with more care where the possible punishment is in its severest form, namely death, for the reason that the execution of such a sentence is irreversible. ***The primordial purpose is to avoid improvident pleas of guilt on the part of an accused where grave crimes are involved since he might be admitting his guilt before the court and thus forfeiting his life and liberty without having fully understood the meaning, significance and consequence of his plea. Moreover, the requirement of taking further evidence would aid this Court on appellate review in determining the propriety or impropriety of the plea.***[64] (emphasis supplied)

For a better understanding of these duties, a closer look is in order.

The essence of the requirement of the conduct of a searching inquiry is the ascertainment of the accused's voluntariness and full comprehension of the consequences of his plea

The searching inquiry requirement means more than informing cursorily the accused that he faces a jail term but also, the exact length of imprisonment under the law and the certainty that he will serve time at the

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[61] SECTION 4. *Plea of Guilty to Non-Capital Offense; Reception of Evidence, Discretionary.* — 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. (5a, R-118)

[62] 718 Phil. 507 (2013).

[63] Id. at 520-521.

[64] Id. at 521.

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national penitentiary or a penal colony.[65] 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.[66]

Not infrequently indeed, an accused pleads guilty in the hope of 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.[67]

A searching inquiry likewise compels the judge to content himself reasonably that the accused has not been coerced or placed under a state of duress — and that his guilty plea has not therefore been given improvidently — either by actual threats of physical harm from malevolent quarters or simply because of his, the judge's, intimidating robes.[68]

Further, a searching inquiry must not only comply with the requirements of Sec. 1, par. (a), of Rule 116 but must also expound on the events that actually took place during the arraignment, the words spoken and the warnings given, with special attention to the age of the accused, his educational attainment and socio-economic status as well as the manner of his arrest and detention, the provision of counsel in his behalf during the custodial and preliminary investigations, and the opportunity of his defense counsel to confer with him. These matters are relevant since they serve as trustworthy indices of his capacity to give a free and informed plea of guilt. Lastly, the trial court must explain the essential elements of the crime he was charged with and its respective penalties and civil liabilities, and also direct a series of questions to defense counsel to determine whether he has conferred with the accused and has completely explained to him the meaning of a plea of guilty. This formula is mandatory and absent any showing that it was followed, a searching inquiry cannot be said to have been undertaken.[69]

Simply, the requirement ensures that the plea of guilty was voluntarily made and that the accused comprehends the severe consequences of his plea. This means asking a myriad of questions which would solicit any indication of coercion, misunderstanding, error, or fraud that may have influenced the decision of the accused to plead guilty to a capital offense.

Thus, in every case where the accused enters a plea of guilty to a capital offense, especially when he is ignorant with little or no education, the

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[65] *People v. Francisco*, 649 Phil. 729, 740 (2010).
[66] *People v. Nuelan*, 419 Phil. 160, 173 (2001).
[67] Id. at 175.
[68] *People v. Dayot*, 265 Phil. 669, 677 (1990).
[69] *People v. Molina*, 423 Phil. 637, 649-650 (2001). (citations omitted)

proper and prudent course to follow is to take such evidence as are available and necessary in support of the material allegations of the information, including the aggravating circumstances therein enumerated, not only to satisfy the trial judge himself but also to aid the Supreme Court in determining whether the accused really and truly understood and comprehended the meaning, full significance, and consequences of his plea.[70] In particular, trial courts are mandated to conduct the searching inquiry, thus:

> Although there is no definite and concrete rule as to how a trial judge must conduct a "searching inquiry," we have held that the following guidelines should be observed:
>
> 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. This is intended to rule out the possibility that the accused has been coerced or placed under a state of duress either by actual threats of physical harm coming from malevolent quarters or simply because of the judge's intimidating robes.
>
> 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. For not infrequently, 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 ensure that the accused does not labor under these mistaken impressions because a plea of guilty carries with it not only the admission of authorship of the crime proper but also of the aggravating circumstances attending it, that increase punishment.

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[70] *People v. Nadera, Jr.*, 381 Phil. 484, 498 (2000).

> 5. Inquire if the accused knows the crime with which he is charged and fully explain to him the elements of the crime which is the basis of his indictment. Failure of the court to do so would constitute a violation of his fundamental right to be informed of the precise nature of the accusation against him and a denial of his right to due process.
>
> 6. All questions posed to the accused should be in a language known and understood by the latter.
>
> 7. The trial judge must satisfy himself that the accused, in pleading guilty, is truly guilty. The accused must be required to narrate the tragedy or reenact the crime or furnish its missing details.[71]

Corollary to this duty, a plea of guilty to a capital offense without the benefit of a searching inquiry or an ineffectual inquiry, as required by Sec. 3, Rule 116 of the 2000 Revised Rules, results to an *improvident plea of guilty.* It has even been held that the failure of the court to inquire into whether the accused knows the crime with which he is charged and to fully explain to him the elements of the crime constitutes a violation of the accused's fundamental right to be informed of the precise nature of the accusation against him and a denial of his right to due process.[72]

This requirement is a reminder that judges must be cautioned against the demands of sheer speed in disposing of cases for their mission, after all, and as has been time and again put, is to see that justice is done.[73]

The plea of guilt made by the accused does not relieve the prosecution of the duty to prove the guilt of the accused beyond reasonable doubt

On account of the amendment of the 1964 Rules of the Court, the second duty of the trial court, to require the prosecution to present evidence of the guilt of the accused beyond reasonable doubt, has become mandatory. Hence, it is imperative that the trial court requires the presentation of evidence from 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.[74]

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[71] *People v. Gambao*, 718 Phil. 507, 521-522 (2013).
[72] Id. at 522.
[73] *People v. Dayot*, supra note 68 at 678.
[74] *People v. De Luna*, 255 Phil. 893, 901 (1989).

The reason behind this requirement is that the plea of guilt alone can never be sufficient to produce guilt beyond reasonable doubt. It must be remembered 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. 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.[75]

Thus, as it stands, the conviction of the accused no longer depends solely on his plea of guilty but rather on the strength of the prosecution's evidence.

The accused must be given a reasonable opportunity to present evidence

The third duty imposed on the trial court by the 2000 Revised Rules is to allow the accused to present exculpatory or mitigating evidence on his behalf in order to properly calibrate the correct imposable penalty. This duty, however, does not mean that the trial court can compel the accused to present evidence. Of course, the court cannot force the accused to present evidence when there is none. The accused is free to waive his right to present evidence if he so desires.

Consistent with the policy of the law, the Court has issued guidelines regarding the waiver of the accused of his right to present evidence under this rule, thus:

> Henceforth, to protect the constitutional right to due process of every accused in a capital offense and to avoid any confusion about the proper steps to be taken when a trial court comes face to face with an accused or his counsel who wants to waive his client's right to present evidence and be heard, **it shall be the unequivocal duty of the trial court to observe, as a prerequisite to the validity of such waiver, a procedure akin to a "searching inquiry" as specified in *People v. Aranzado* when an accused pleads guilty**, particularly —

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[75] *People v. Besonia*, 466 Phil. 822, 841-842 (2004). (citation omitted)

1. The trial court shall hear both the prosecution and the accused with their respective counsel on the desire or manifestation of the accused to waive the right to present evidence and be heard.

2. The trial court shall ensure the attendance of the prosecution and especially the accused with their respective counsel in the hearing which must be recorded. Their presence must be duly entered in the minutes of the proceedings.

3. During the hearing, it shall be the task of the trial court to —

> a. ask the defense counsel a series of question to determine whether he had conferred with and completely explained to the accused that he had the right to present evidence and be heard as well as its meaning and consequences, together with the significance and outcome of the waiver of such right. If the lawyer for the accused has not done so, the trial court shall give the latter enough time to fulfill this professional obligation.
>
> b. inquire from the defense counsel with conformity of the accused whether he wants to present evidence or submit a memorandum elucidating on the contradictions and insufficiency of the prosecution evidence, if any, or in default theory, file a demurrer to evidence with prior leave of court, if he so believes that the prosecution evidence is so weak that it need not even be rebutted. If there is a desire to do so, the trial court shall give the defense enough time to this purpose.
>
> c. 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 waiver.
>
> d. all questions posed to the accused should be in a language known and understood by the latter, hence, the record must state the language used for this purpose as well as reflect the corresponding translation thereof in English.

In passing, **trial courts may also abide by the foregoing procedure even when the waiver of the right to be present and be heard is made in criminal cases involving non-capital offenses**. After all, in whatever action or forum the accused is situated, the waiver that he makes if it is to be binding and effective must still be exhibited in the case records to have been validly undertaken, that is, it was done voluntarily, knowingly and intelligently with sufficient awareness of the relevant circumstances and likely consequences. As a matter of good court practice, the trial court would have to rely upon the most convenient, if not primary, evidence of the validity of the waiver which would amount to the same thing as showing its adherence to the step-by-step process outlined above.

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> Clearly, the rationale behind the foregoing requirements is that courts must proceed with more care where the possible punishment is in its severest form, namely death, for the reason that the execution of such a sentence in irrevocable and experience has shown that innocent persons have at times thrown caution to the wind and given up defending themselves out of ignorance or desperation. Moreover, the necessity of taking further evidence would aid this Court in determining on appellate review the proprietary or impropriety of the waiver.[76] (emphasis supplied, citations omitted)

The RTC failed to comply with the mandate of Sec. 3, Rule 116 of the 2000 Revised Rules on Criminal Procedure

Applying the foregoing principles in this case, it is evident that the trial court failed miserably to comply with the duties imposed by the 2000 Revised Rules. As regards the first duty, the trial court failed to conduct a searching inquiry to determine the voluntariness and full comprehension by accused-appellant of his plea of guilty. The Court scanned the records of the case to see compliance with the said duty. The search, however, was in vain. The records are barren of any proceeding where the trial court gauged the mindset of the accused when he pleaded guilty.

There is no transcript of stenographic notes which would reveal what actually took place, what words were spoken, what warnings were given, if a translation was made and the manner by which it was made, and whether or not the guidelines for a searching inquiry were duly observed.

The RTC merely stated in its August 20, 2009 Order[77] that "[a]ll the contents of the Information as well as the particular crime charged was personally read to accused-appellant in a Cebuano-Visayan dialect."[78] The RTC further stated that the court and his counsel explained to accused-appellant the consequences of his plea of guilt and that he will be sentenced and imprisoned. Despite this, accused-appellant maintained his plea of guilty.

Simply, there is no proof whatsoever that the herein judge conducted the searching inquiry required. No other conclusion can be made other than that the RTC failed to discharge its duties. Accused-appellant's plea of guilt is improvident.

What compounded the RTC's strenuous oversight is the fact that the trial court penalized accused-appellant of the crime charged despite failure

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[76] *People v. Bodoso*, 446 Phil. 838, 855-857 (2003).
[77] Records, p. 22.
[78] Id.

of the prosecution to present evidence of his guilt. This is in direct contravention of the mandate of the second duty stated in Sec. 3, Rule 116 of the 2000 Revised Rules.

In this regard, the Court agrees with the CA that accused-appellant's guilt for the crime of murder was not proven beyond reasonable doubt. It is beyond cavil that the prosecution did not present any witness, despite being given four (4) separate hearing dates to do so. Thus, the RTC's conviction of accused-appellant relied solely on his improvident plea of guilty.

Lastly, as regard the third requisite, the October 5, 2011 Order of the RTC stated that "[a]ccused[-appellant,] despite the non-reception of prosecution's evidence[,] opted not to present any evidence in [*sic*] his behalf."[79] It would appear that accused-appellant waived his right to present evidence under Sec. 3, Rule 116 of the 2000 Revised Rules. However, the same Order and the records of the case are bereft of any showing that the trial court complied with the guidelines promulgated by the Court in *People v. Bodoso*. Such cavalier attitude of the trial court to the Rules of Court and existing jurisprudence leaves much to be desired.

The RTC's noncompliance with the Rules of Court is beyond dispute. Both the OSG and accused-appellant agree on this point. The divergence, however, is centered on the effect of such noncompliance. Accused-appellant contends that he should be acquitted while the OSG agrees with the CA's order to remand the case for reception of evidence to prove accused-appellant's guilt.

The acquittal of accused-appellant is in order.

Jurisprudence dictates that the correct course of action depends on whether the prosecution has presented evidence to establish the guilt of the accused

The State insists that the case must be remanded to the trial court for further proceedings so that the trial court may comply with the requirements of Sec. 3, Rule 116.

For his part, accused-appellant insists that he should be acquitted because his guilt was not proven beyond reasonable doubt. In support thereof, he cited *Janjalani*[80] which ruled that "[c]onvictions based on an

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[79] Id. at 61.
[80] Supra note 33.

improvident plea of guilt are set aside only if such plea is the sole basis of the judgment."

Unfortunately, accused-appellant's quote is misleading. While it is true that convictions based on an improvident plea of guilt are indeed set aside if the plea is the sole basis of the judgment, it does not automatically result in the acquittal of the accused. Rather, the case is remanded to the lower court for compliance with Sec. 3, Rule 116 of the 2000 Revised Rules.

The issue of the effects of an improvident plea of guilty on a conviction is not novel.

The applicable course of action prior to the 1985 Rules is clear. As stated above, the conviction of the accused simply depends on whether the plea of guilty to a capital offense was improvident or not. An indubitable admission of guilt automatically results to a conviction. Otherwise, a conviction on the basis of an improvident plea of guilt, on appeal, would be set aside and the case would be remanded for presentation of evidence. An exception to this is when, despite the existence of an improvident plea, a conviction will not be disturbed when the prosecution presented sufficient evidence during trial to prove the guilt of the accused beyond reasonable doubt. The existing rules, however, shifted the focus from the nature of the plea to whether evidence was presented during the trial to prove the guilt of the accused.

People v. Derilo[81] explained this shift, thus:

> Over the years and through numerous cases, this Court has adopted an exception to the erstwhile rule enunciating that there is no need to prove the presence of aggravating circumstances alleged in an information or complaint when the accused pleads guilty to the charge. Our rulings regarding this principle were expressed more or less in this wise:
>
> > Having pleaded guilty to the information, these aggravating circumstances were deemed fully established, for the plea of guilty to the information covers both the crime as well as its attendant circumstances qualifying and/or aggravating the crime.
>
> We are not, however, concerned here merely with the doctrine itself but more specifically with the consequences thereof. Thus, in *People vs. Rapirap*, it was formerly explained that the subject doctrine has the following effects:

[81] 338 Phil. 350 (1997).

> A plea of guilty does not merely join the issues of the complaint or information, but amounts to an admission of guilt and of the material facts alleged in the complaint or information and in this sense takes the place of the trial itself. Such plea removes the necessity of presenting further evidence and for all intents and purposes the case is deemed tried on its merits and submitted for decision. It leaves the court with no alternative but to impose the penalty prescribed by law.

Then, in *People vs. Lambino*, we prevented the accused in criminal actions from contradicting the outcome of his admission, with our holding that by the plea of guilty, the accused admits all the facts alleged in the information and, by that plea, he is precluded from showing that he has not committed them.

People vs. Yamson, et al. thereafter expanded the application of the doctrine to both capital and non-capital cases:

> A plea of guilty is an admission of all the material facts alleged in the complaint or information. A plea of guilty when formally entered in arraignment is sufficient to sustain a conviction for any offense charged in the information, without the necessity of requiring additional evidence, since by so pleading, the defendant himself has supplied the necessary proof. It matters not even if the offense is capital for the admission (plea of guilty) covers both the crime as well as its attendant circumstances.

Finally, *People vs. Apduhan, Jr.* cited by some of the cases relied upon by the lower court, declared that —

> While an unqualified plea of guilty is mitigating, it at the same time constitutes an admission of all material facts alleged in the information, including the aggravating circumstance therein recited. x x x The prosecution does not need to prove the three aggravating circumstances (all alleged in the second amended information) since the accused, by his plea of guilty, has supplied the requisite proof.

With the foregoing presentation, the trial court must have believed that it had acted correctly in presuming the existence of evident premeditation based on appellant's plea of guilty without any proof being presented to establish such aggravating circumstance. However, the developmental growth of our procedural rules did not stop there. With the advent of the revised Rules on Criminal Procedure on January 1, 1985, a new rule, specifically mandating the course that trial courts should follow in capital cases where the accused pleads guilty, was introduced into our remedial law with this provision:

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

We expounded on this in *People vs. Camay* with this explanation:

> 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.
>
> 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 degree of culpability of the defendant. This is the proper norm to be followed not only to satisfy the trial judge but also to aid the Court in determining whether or not the accused really and truly comprehended the meaning, full significance and consequences of his plea.

The presentation of evidence is 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 penalty.

To emphasize its importance this Court held in *People vs. Dayot* that the rule in Section 3, Rule 116 is mandatory, and issued the warning that any judge who fails to observe its command commits a grave abuse of discretion.

This Court has come a long way in adopting a mandatory rule with regard to the presentation of evidence in capital cases where the accused pleads guilty to the criminal charge. From granting trial courts in the

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> earlier Rules of Court sufficient discretion in requiring evidence whenever guilt is admitted by the accused, the Court has now made it mandatory on the part of the lower courts to compel the presentation of evidence and make sure that the accused fully comprehends the nature and consequences of his plea of guilty.[82] (citations omitted)

Thus, the plea of guilty of an accused cannot stand in place of the evidence that must be presented and is called for by Sec. 3 of Rule 116. Trial courts should no longer assume that a plea of guilty includes an admission of the attending circumstances alleged in the information as they are now required to demand that the prosecution prove the exact liability of the accused. The requirements of Sec. 3 would become idle and fruitless if we were to allow conclusions of criminal liability and aggravating circumstances on the dubious strength of a presumptive rule.[83]

As it stands, the conviction of the accused shall be based principally on the evidence presented by the prosecution. The improvident plea of guilty by the accused becomes secondary.

Accordingly, convictions involving improvident pleas are affirmed if the same are supported by proof beyond reasonable doubt. Otherwise, the conviction is set aside and the case remanded for re-trial when the conviction is predicated solely on the basis of the improvident plea of guilt, meaning that the prosecution was unable to prove the accused's guilt beyond reasonable doubt. Thus:

> **As in the case of an improvident plea of guilty**, an invalid waiver of the right to present evidence and be heard ***per se*** **does not work to vacate a finding of guilt in the criminal case and enforce an automatic remand thereof to the trial court.** In *People v. Molina*, **to warrant the remand of the case it must also be proved that as a result of such irregularity there was inadequate representation of facts by either the prosecution or the defense during the trial** —
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> > In *People v. Abapo* we found that undue reliance upon an invalid plea of guilty prevented the prosecution from fully presenting its evidence, and thus remanded the criminal case for further proceedings. Similarly in *People v. Durango* where an improvident plea of guilty was followed by an abbreviated proceeding with practically no role at all being played by the defense, we ruled that this procedure was "just too meager to accept as being the standard constitutional due process at work enough to forfeit a human life" and so threw back the criminal case to the trial court for appropriate action. Verily the relevant matter that justifies the remand of the criminal case to the trial court is

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[82] Id. at 365-368.
[83] Id. at 373-374.

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> the procedural unfairness or complete miscarriage of justice in the handling of the proceedings *a quo* as occasioned by x x x the "attendant circumstances."
>
> Conversely, **where facts are adequately represented in the criminal case and no procedural unfairness or irregularity has prejudiced either the prosecution or the defense as a result of the invalid waiver, the rule is that the guilty verdict may nevertheless be upheld where the judgment is supported beyond reasonable doubt by the evidence on record.** Verily, in such a case, it would be a useless ritual to return the case to the trial court for further proceedings.[84] (emphases supplied)

Accordingly, this Court has sustained convictions[85] involving improvident pleas of guilt because, in any case, the sentence of conviction is supported by proof beyond reasonable doubt independent of the accused's plea of guilty.

However, where the conviction is predicated solely on the basis of an improvident plea of guilty, this Court has consistently chosen to set aside said conviction and, instead, remand the case to the lower court for further proceedings. This was the ruling in an unbroken line of jurisprudence.[86] "Further proceedings" usually entails re-arraignment and reception of evidence from both the prosecution and the defense in compliance with Sec. 3, Rule 116.

In *People v. Dalacat,*[87] this Court, in deciding to remand the case, stated the following:

> Given the unchanging state of the three-tiered requisites in Section 3, Rule 116, there is, indeed, no justification for the trial court's failure to observe them.
>
> Thus, we purge the decision under review of its errors and remand the case to the trial court for further re-arraignment, a more incisive searching inquiry and the reception of evidence for the prosecution and the

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[84] *People v. Bodoso*, supra note 76 at 857-858.
[85] *People v. Petalcorin*, 259 Phil. 1173 (1989); *People v. Nuñez*, 369 Phil. 422 (1999), *People v. Gumimba*, 545 Phil. 627 (2007), *People v. Ceredon*, 566 Phil. 536 (2008), and *People v. Francisco*, 649 Phil. 729 (2010).
[86] *People v. Alicando*, 321 Phil. 656 (1995); *People v. Diaz*, 325 Phil. 217 (1996); *People v. Estomaca*, 326 Phil. 429 (1996); *People v. Abapo,* 385 Phil. 1175 (2000); *People v. Samontañez*, 400 Phil. 703 (2000); *People v. Sta. Teresa*, 407 Phil. 194 (2001); *People v. Galvez*, 428 Phil. 438 (2002); *People v. Pastor*, 428 Phil. 976 (2002); *People v. Ernas*, 455 Phil. 829 (2003); *People v. Besonia,* 466 Phil. 822 (2004); *People v. Murillo*, 478 Phil. 446 (2004); and *People v. Dalacat*, 485 Phil. 35 (2004).
[87] *People v. Dalacat,* supra.

> defense, if the latter so desires, in accordance with the foregoing guideposts.[88] (citation omitted)

Parenthetically, it is a mistake to assume that an invalid arraignment automatically results to a remand of the case. In *People v. Ong (Ong),*[89] the Court decided the case on its merits despite a determination of an invalid arraignment.

Jurisprudence has developed in such a way that cases are remanded back to the trial court for re-arraignment and re-trial when undue prejudice was brought about by the improvident plea of guilty. The Court explains this course of action in *People v. Abapo*,[90] *viz*:

> We are not unmindful of the rulings of this Court to the effect that the manner by which the plea of guilt was made, whether improvidently or not, loses its legal significance where the conviction is based on the evidence proving the commission by the accused of the offense charged. However, after a careful examination of the records of this case, we find that the improvident plea of guilt of the accused-appellant has affected the manner by which the prosecution conducted its presentation of the evidence. The presentation of the prosecution's case was lacking in assiduity and was not characterized with the meticulous attention to details that is necessarily expected in a prosecution for a capital offense. The state prosecutor in his examination of the victim was evidently concerned only with proving the respective dates of the commission of the repeated rapes, and did not attempt to elicit details about the commission of each rape that would satisfy the requirements for establishing proof beyond reasonable doubt that the offenses charged have in fact been committed by the accused. It is clear to our mind that the prosecution did not discharge its obligation as seriously as it would have had there been no plea of guilt on the part of the accused. x x x[.][91] (citation omitted)

The Court repeated the rule in *People v. Molina (Molina)*[92] when it held that:

> It is also urged in the Brief for the Appellant that an improvident plea of guilty *per se* results in the remand of the criminal case(s) to the trial court for the re-arraignment of accused-appellant and for further proceedings. We hold that this argument does not accurately reflect the standing principle. Our jurisdiction does not subscribe to a *per se* rule that once a plea of guilty is deemed improvidently made that the accused-appellant is at once entitled to a remand. To warrant a remand of the criminal case, it must also be proved that as a result of such irregularity there was inadequate representation of facts by either the prosecution or the defense during the trial. In *People v. Abapo,* we found that undue

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[88] Id. at 54.
[89] 476 Phil. 553 (2004).
[90] Supra note 86 at 1186-1187.
[91] Id.
[92] Supra note 69.

> reliance upon an invalid plea of guilty prevented the prosecution from fully presenting its evidence, and thus remanded the criminal case for further proceedings. Similarly in *People v. Durango* where an improvident plea of guilty was followed by an abbreviated proceeding with practically no role at all being played by the defense, we ruled that this procedure was "just too meager to accept as being the standard constitutional due process at work enough to forfeit a human life" and so threw back the criminal case to the trial court for appropriate action. Verily the relevant matter that justifies the remand of the criminal case to the trial court is the procedural unfairness or complete miscarriage of justice in the handling of the proceedings *a quo* as occasioned by the improvident plea of guilty, **or what *People v. Tizon*, encapsulizes as the "attendant circumstances."**[93] (citations omitted, emphasis supplied)

Here, the Court cannot sustain the conviction as there is nothing in the records that would show the guilt of accused-appellant. Neither is it just to remand the case. This is not a situation where the prosecution was wholly deprived of the opportunity to perform its duties under the 2000 Revised Rules to warrant a remand. In this case, the prosecution was already given reasonable opportunity to prove its case against accused-appellant. Regrettably, the State squandered its chances to the detriment of accused-appellant. If anything, the State, given its vast resources and awesome powers, cannot be allowed to vex an accused with criminal prosecution more than once. The State should, first and foremost, exercise fairness.

The records also do not disclose that the improvident plea of guilty jeopardized the presentation of evidence by the prosecution, to the prejudice of either the prosecution or accused-appellant.

Therefore, in instances where an improvident plea of guilt has been entered and the prosecution was given reasonable opportunity to present evidence to establish the guilt of the accused but failed to do so, the accused is entitled to an acquittal, if only to give rise to the constitutionally guaranteed right to due process and the presumption of innocence.

Since the prosecution was given four (4) separate hearing dates to present evidence against accused-appellant and, despite these chances, the prosecution was unable to prove his guilt, the Court acquits accused-appellant for failure of the prosecution to establish his guilt beyond reasonable doubt for the crime of murder.

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[93] Id. at 651-652.

The Refutation of the Dissents

Remand of the case to the trial court is unreasonable under the circumstances of the case

The Court respects the contrary position taken by other Members of the Court. While they agree that the trial court failed to comply with the three-fold duty imposed by Sec. 3, Rule 116 of the 2000 Revised Rules, they, however, are in unison that a remand of the instant case is more just and proper for a myriad of reasons. Their considerations will now be addressed in an effort to fully ventilate the issues at hand.

First, in his separate Opinion, Mr. Justice Rodil V. Zalameda argues that there was no evidence proving the prosecution was sorely remiss in its duties as to warrant the acquittal of accused-appellant and that this failure on the part of the prosecution may be justified. Further, he asserts that there was no showing that the prosecution was given an opportunity to explain why it failed to present its evidence and no showing that the defense raised any prejudice caused by the prosecution's inaction during the trial proper.[94] In short, he urges the Court to examine the reasons for such failure to determine whether the failure to prosecute was excusable or not. For this purpose, he proposes that the Court employ an approach similar to that adopted in cases of inordinate delay, as elucidated in *Cagang v. Sandiganbayan Fifth Division (Cagang)*.[95] The purpose of this proposal is to determine whether the delay is excusable considering that institutional delays may have occurred, which should not be taken against the State.

Second, he highlights the fact that accused-appellant maintained his plea of guilt despite the reading of the allegations of the information and the explanation given to him by counsel regarding the consequences of his plea. Thus, while accused-appellant's arraignment was less than ideal, the learned Justice asserts that to ignore the accused's "resolute stance" would be to unduly favor the accused and to ignore the interests of the State and the victim's relatives.[96] Madame Justice Amy C. Lazaro-Javier, in turn, posits that to acquit accused-appellant now would be to put a sad closure to the death of Selma and the sufferings of her family.[97]

Third, Mr. Justice Zalameda also found sufficient basis to engender the belief that accused-appellant was likely responsible for Selma's death and should be held for trial. He cites the affidavits submitted during

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[94] *Reflections of J. Zalameda*, pp. 2-3.
[95] G.R. Nos. 206438, 206458 & 210141-42, July 31, 2018, 875 SCRA 374.
[96] *Reflections of J. Zalameda*, p. 3.
[97] *Revised Reflections of J. Javier*, p. 4.

preliminary investigation, wherein the affiants narrated the events concerning the death of the victim, Selma. His Opinion also notes that most of the affiants were relatives of accused-appellant,[98] thereby implying that this is most likely the reason why the prosecution had a hard time and even failed to prosecute. Mr. Justice Edgardo L. Delos Santos shared this view. He opined that "accused's plea of guilt and relationship with the private complainant indeed affected the supposed postponements and the absence of the key witness during the trial."[99]

Fourth, Mr. Justice Zalameda opines that the prosecution should have sought the provisional dismissal of the instant case. He further opines that the trial court should have issued a bench warrant instead of allowing the trial to terminate without any witnesses presented by either of the parties.[100] He reasons that "the trial judge should have been more discerning and proactive by assisting the prosecution in securing its witnesses' attendance before hastily terminating the trial, and convicting the accused."[101] He concludes that "[p]erforce, courts, within ethical limits, should afford the prosecution a real opportunity to ventilate its accusations through the use of authorized court processes to compel production of evidence. After all, the State is also entitled to due process in criminal cases, that is, a fair opportunity to prosecute and convict."[102] Madame Justice Javier, for her part, observes that "[t]he evidence at the preliminary investigation was overwhelmingly inculpatory of murder that, together with appellant's guilty plea, should have compelled the trial judge and the trial prosecutor to have acted pro-actively."[103] Mr. Justice Mario V. Lopez, on the other hand, asserts that the case should be remanded because "the trial court committed an error or abuse of discretion when it allowed *nolle prosequi* amounting to dereliction of duty."[104] The learned Justice opines that "[the trial] court should have directed the prosecution, under pain of contempt, to prove the *corpus delicti* and to require the presentation of the victim's death certificate, the autopsy report, and the investigation report x x x. These documentary evidence coupled with the confession of the accused may suffice to satisfy the required quantum of evidence to secure a conviction, at least for the crime of homicide, assuming that no witness can be presented to the court."[105]

Fifth, for his part, Mr. Justice Samuel H. Gaerlan posits that "[i]t is indubitable xxx that the trial court judge was guilty of negligence in his duty

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[98] *Reflections of J. Zalameda,* pp. 3-5.
[99] *Reflections of J. Delos Santos,* pp. 2-3.
[100] *Reflections of J. Zalameda,* pp. 7-9.
[101] Id. at 8.
[102] Id. at 8-9.
[103] *Revised Reflections of J. Javier,* p. 2.
[104] *Reflections of J. Lopez,* p. 1.
[105] Id.

of ensuring that due process is observed despite a voluntary plea of guilt on the part of the appellant"[106] since the Court "made no mention of anything that would show that the trial court judge obliged the prosecution to present their evidence despite a voluntary plea of guilty. The *ponencia* cited no order or resolution from the trial court judge further requiring and directing the prosecution to proceed to the presentation of its witnesses after the latter's initial failure to present its evidence on the four hearing dates scheduled for such purpose. Instead, records show that the judge ordered the appellant to present witnesses in his defense, which appellant opted to waive."[107]

Sixth, Mr. Justice Gaerlan claims that "the parties' deliberate omission to present their evidence in support of their respective claims and defenses, was the effect of appellant's plea of guilt, which later on has been proven to be made improvidently. There was, therefore, undue reliance on the part of both the prosecution and the defense upon an invalid plea of guilty which prevented them from fully presenting their respective evidence."[108] Thus, it is of no moment that the prosecution failed to present its evidence despite reasonable opportunity to do so. Further, he opines that the failure of the prosecution to present its evidence "x x x is not the lone fault of the prosecution but also of the trial court judge."[109] This justifies the remand of the case.

Finally, Madame Senior Associate Justice Estela M. Perlas-Bernabe argues that the instant case be remanded because the lack of a valid plea taints the entire criminal proceedings and precludes the trial court from rendering a valid verdict.[110] She posits that an invalid arraignment should be considered as a fatal defect in criminal proceedings because it taints the accused's ability to defend himself [111] and may likewise affect the prosecution's strategy and vigor in presenting its case.[112] She asserts that an invalid arraignment should result in the remand of the case. This view is shared by Madame Justice Javier. [113] Meanwhile, Mr. Justice Lopez asseverates that accused-appellant should be re-arraigned to enter a proper plea so that the court may render a valid verdict.[114]

In sum, they recommend that the case be remanded for re-trial.

Regrettably, the Court does not agree with these positions. Following existing laws and jurisprudence, the Court is convinced that justice is better

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[106] *Reflections of J. Gaerlan,* p. 6.
[107] Id. at 5-6.
[108] Id. at 5.
[109] Id.
[110] *Revised Reflections of J. Perlas-Bernabe,* p. 1.
[111] Id. at 3.
[112] Id. at 6.
[113] *Revised Reflections of J. Javier,* pp. 1-2.
[114] *Reflections of J. Lopez,* p. 1.

achieved with accused-appellant's acquittal and, with due respect, the positions taken by some members of the Court would serve as a dangerous precedent that would put the accused in a more disadvantageous position, thereby jeopardizing fairness in criminal proceedings.

Allow Us to explain.

First, Mr. Justice Zalameda contends that it cannot be concluded that the prosecution was sorely remiss in its duties as to warrant the acquittal of accused-appellant and proposes to use the framework adopted in *Cagang*, supra, to balance the interest of all parties involved.

The Court respectfully begs to differ.

To the Court's mind, the proposal to determine the justification of the delay lacks basis and is unwarranted. There is nothing in the records that would show any inkling that the delay was excusable; otherwise the prosecution would have raised the same or the trial court would have stated otherwise. Further, the State had the opportunity to raise the reason for the prosecution's failure to present evidence in the appeal before the CA and this Court. Yet, it had been silent. The fact that none was noted or raised means that there were no extraordinary circumstances that would warrant re-trial.

On the contrary, there were sufficient reasons why the trial court was justified in waiving the prosecution's opportunity to present its evidence and proceeded with the promulgation of the decision.

To reiterate, Sec. 3, Rule 116 of the 2000 Revised Rules imposes upon the prosecution the duty to prove beyond reasonable doubt the guilt of the accused for the capital offense he pleaded guilty to. Aside from proving his guilt, the prosecution must also prove the accused's precise degree of culpability.

Clearly, the prosecution failed to discharge this duty. It failed to prove accused-appellant's guilt for the crime of murder beyond reasonable doubt. It did not present any evidence despite more than ample opportunity to do so.

As stated, the trial court provided the prosecution with reasonable opportunity to present its evidence. No less than four (4) separate hearing dates were given to the prosecution. Upon its failure to present evidence on the fourth hearing date, the prosecution did not seek another hearing date to

once again attempt to present its evidence. Rather, the prosecution, together with the defense, submitted the case for decision.[115]

Sec. 11, Rule 119 of the 2000 Revised Rules provides:

> SECTION 11. Order of Trial. — The trial shall proceed in the following order:
>
> (a) The prosecution shall present evidence to prove the charge and, in the proper case, the civil liability.
>
> (b) The accused may present evidence to prove his defense and damages, if any, arising from the issuance of a provisional remedy in the case.
>
> (c) The prosecution and the defense may, in that order, present rebuttal and sur-rebuttal evidence unless the court, in furtherance of justice, permits them to present additional evidence bearing upon the main issue.
>
> **(d) Upon admission of the evidence of the parties, the case shall be deemed submitted for decision unless the court directs them to argue orally or to submit written memoranda.**
>
> (e) When the accused admits the act or omission charged in the complaint or information but interposes a lawful defense, the order of trial may be modified. (3a) (emphasis supplied)

By submitting the case for decision, the prosecution impliedly declared that it is ready for the trial court to render its decision on the basis of the offered evidence. It must be stressed that the submission of the case for resolution did not originate from the trial court judge. It was on motion of both parties that the case be submitted. It is evident that the prosecution was not prevented from presenting its evidence as to accused-appellant's guilt and degree of culpability; rather, it appears that the prosecution merely chose not to pursue the same. No one prevented the prosecution from asking for more time to present its evidence; it was free to do so. However, when it chose to submit the case for decision, the State should have been ready for the consequences of its actions.

The fact that the defense joined the prosecution in its submission of the case for resolution should not be taken against accused-appellant. "In criminal cases, the prosecution has the *onus probandi* of establishing the guilt of the accused. *Ei incumbit probatio non qui negat.* He who asserts — not he who denies — must prove. The burden must be discharged by the

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[115] *Rollo*, p. 5; *records*, p. 54.

prosecution on the strength of its own evidence, not on the weakness of that for the defense."[116]

The prosecution's failure to present evidence equates to a failure to discharge its duty under Sec. 3 of Rule 116: to prove beyond reasonable doubt the guilt of accused-appellant for the crime of murder. The prosecution's failure to discharge said duty, absent any undue prejudice to either the prosecution or the defense, warrants the acquittal of accused-appellant.

Thus, there is no need to dwell on the justifications for the delay as there are no circumstances that would warrant suspicion that there was something amiss in the proceedings, especially when the prosecution actively participated in the waiver of its opportunity to present evidence.

Since there is no reason to delve into the justifications of the delay, there is no need to adopt a system similar to that adopted in *Cagang*.[117]

While the Court agrees that institutional delay is a matter which must be addressed and that such institutional delay must not be taken against the State, We are of the opinion that the instant case does not involve any evidence of institutional delay. The prosecution had reasonable opportunity to manifest to the trial court that its failure to present evidence on the hearing dates provided to it was due to any institutional delay. It did not do so. Instead of pursuing any of the remedies allowed by law for it to present evidence, the prosecution chose to move for submission of the case for resolution of the trial court. This belies any claim of institutional delay.

Ultimately, the duty placed on the prosecution by Sec. 3, Rule 116 is to prove beyond reasonable doubt the guilt of accused-appellant for the capital offense of murder. The prosecution failed to discharge this duty. To allow a re-trial would reward the prosecution for its inefficiency and nonfeasance. Justice and fairness dictate that accused-appellant be acquitted; lest, the Court would, wittingly or unwittingly, place the accused-appellant at a distinct disadvantage, a position that fairness would never allow.

Second, Mr. Justice Zalameda theorizes that to ignore accused-appellant's resolute maintenance of his plea of guilt would be to unduly favor accused-appellant and to ignore the interests of the State and of the victims' relatives. Simply put, accused-appellant's unusual resoluteness in maintaining his guilty plea should be enough justification for re-trial.

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[116] *People v. Asis*, 439 Phil. 707, 727-728 (2002).
[117] Supra note 95.

Again, the Court respectfully disagrees.

As discussed, the existing rules have shifted the focus from the nature of the plea to the quantum of evidence presented during trial to prove the guilt of the accused. The plea of guilty of an accused cannot stand in place of the evidence that must be presented and is called for by Sec. 3 of Rule 116. Trial courts should no longer assume that a plea of guilty includes an admission of the attending circumstances alleged in the information as they are now required to demand that the prosecution should prove the exact liability of the accused. ***The requirements of Sec. 3 would become idle and fruitless if we were to allow conclusions of criminal liability and aggravating circumstances on the dubious strength of a presumptive rule.***[118]

The fact that accused-appellant maintained his plea of guilt is of no consequence. His plea does not merit any weight and should not be considered by this Court in arriving at its resolution of the instant case.

Foremost, such plea was improvidently made. Accused-appellant did not have the benefit of the guidance of a searching inquiry. Thus, his plea cannot be legally considered as having been voluntarily made and with full comprehension of the consequences of such plea.

The strongest evidence to support accused-appellant's improvident plea is the fact that after the judgment of conviction had been rendered, accused-appellant appealed the case before the CA to have his conviction overturned. This shows that he is unaware of the consequences of his plea. Further, it belies any and all claims that he is resolute in the maintenance of his plea of guilt. If he is truly resolute in his guilty plea, he should not have appealed his conviction. This, however, is not the case.

Time and again, this Court has recognized that "[n]ot infrequently indeed, an accused pleads guilty in the hope of 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."[119] A searching inquiry likewise compels the judge to content himself reasonably that the accused has not been coerced or placed under a state of duress and that his guilty plea has not therefore been given improvidently — either by actual threats of physical harm from malevolent quarters or simply because of his, the judge's, intimidating robes."[120]

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[118] *People v. Derilo*, supra note 81 at 373-374. (emphasis supplied)
[119] *People v. Nuelan*, 419 Phil. 160, 175 (2001).
[120] *People v. Dayot*, supra note 68.

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To give any iota of weight to accused-appellant's improvident plea of guilt would run counter to a long line of jurisprudence, as well as to the tenets of justice and the constitutional presumption of innocence. It would also render inutile the requirements of Sec. 3, Rule 116 of the 2000 Revised Rules, which have been placed to protect the rights of the accused.

Aside from the fact that accused-appellant's plea was improvidently made, it is important to note that, with the advent of the 1985 Rules which introduced Sec. 3 of Rule 116, the plea entered by an accused in criminal cases involving a capital offense is negligible. The conviction of the accused shall stand solely on the strength of the evidence of the prosecution.

Here, there is nothing in the records that would show the guilt of accused-appellant. It is also not just to remand the case because this is not a situation where the prosecution was wholly deprived of the opportunity to perform its duties under the 2000 Revised Rules. In truth, to remand the instant case in the face of the prosecution's failure to discharge its duty under Sec. 3, Rule 116 would be to unduly favor the State and the victims' relatives to the detriment of the constitutional rights of accused-appellant. This is not what our Constitution envisioned. This is especially true because Sec. 3 of Rule 116 has been in place since 1985. The duty of the prosecution to prove the accused's guilt for the capital offense, despite his plea of guilt, whether improvidently made or not, is not novel. No special considerations should be allotted the prosecution for its failure. *In dubio pro reo.* When in doubt, rule for the accused.

Moreover, existing laws and jurisprudence do not prevent the private complainant from attaining justice. The acquittal of accused-appellant does not disclose a claim for civil damages against the accused.

Lastly, to construe the silence and lack of action to withdraw his guilty plea as an evidence of his guilt would not only read too much on such omission but rather run afoul against the right of the accused-appellant to remain silent. To be sure, to require or even expect the accused-appellant to act in a particular way lest he be adjudged guilty would not only make his right to be silent, but also the presumption of innocence, an empty constitutional promise.

Hence, in this Decision, the interest of all parties concerned are protected.

Third, Mr. Justice Zalameda, joined by Mr. Justice Delos Santos, also posits that there is sufficient basis to engender the belief that accused-appellant was likely responsible for Selma's death and should be held for trial. They cite the narration of events surrounding the death of Selma stated

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in the records of the preliminary investigation and theorize that the plea of guilt affects the prosecution's presentation of evidence. They hypothesize that "Angelito's absences were based upon his reliance on his brother's admission of guilt;"[121] that "accused-appellant's plea of guilt to the charge was an acknowledgment of his authorship of the crime and an attempt to give his family some type of closure."[122]

With due respect, the Court cannot accept that proposition and to adopt this position would be treading on dangerous ground as it would consider evidence not presented during trial and, worse, allow surmises, conjectures, or inferences of the likelihood of the accused's guilt and, on said basis, order that the accused be tried again.

At the risk of being repetitive, there is nothing on record to support the guilt of accused-appellant aside from his improvident plea of guilt. This is something that is conceded. This is why the Court acquitted accused-appellant because there is no evidence to support his conviction. This acquittal is based on the duty of appellate courts to determine whether the quantum of evidence has been met for conviction. It must be made clear that appellate courts are not called to determine whether there is sufficient ground to engender the belief that the accused committed the crime and, thus, should be tried again. If the appellate court undertakes such a course of action, it would be acting beyond its authority and may even constitute grave abuse of discretion.

Here, the case already underwent proceedings in a court of law. The prosecution already had reasonable opportunity to discharge its duty under Sec. 3, Rule 116. Unfortunately, it failed to discharge said duty. There was no evidence of fraud or collusion. Neither was there prejudice in the proceedings that resulted to conviction of the accused by the trial court. Considering the foregoing, the Court submits that it is imprudent and unjust to once more determine the likelihood of accused-appellant's guilt and, on said basis, remand the case.

To be sure, the recommendation to remand is not based on any evidence on record but on assumptions, surmises and conjectures that are inferred from evidence *aliunde*. Evidence to support conviction or even re-trial should be based on evidence on record; otherwise, it would violate the due process rights of the accused, particularly, the presumption of innocence. A court that would lend its imprimatur to this act would be at a

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[121] *Reflections of J. Zalameda,* p. 4.
[122] Id.

loss, for "***indeed, the sea of suspicion has no shore, and the court that embarks upon it is without rudder or compass***."[123]

While, indeed, the function of the Court is to ferret out the truth, equally important is the mandate of the Court to put primacy on constitutional safeguards of human life and liberty. The truth surrounding Selma's death may only be ferreted out on the basis of evidence presented in court, as the Court is a court of record and of due process. Settled is the rule that "x x x courts will only consider as evidence that which has been formally offered."[124] This "x x x ensures the right of the adverse party to due process of law, for, otherwise, the adverse party would not be put in the position to timely object to the evidence, as well as to properly counter the impact of evidence not formally offered."[125] In the absence of inculpatory evidence amounting to proof beyond reasonable doubt, the Court is mandated by the constitutional presumption of innocence to acquit accused-appellant.

Fourth, Mr. Justice Zalameda argues that the prosecution should have sought the provisional dismissal of the instant case. He further opines that the trial court should have issued a bench warrant instead of terminating the trial proceedings. Meanwhile, Mr. Justice Lopez opines that the trial court should have ordered the prosecution to prove the *corpus delicti* and the submission of documentary evidence so as to prove accused-appellant's guilt.

The Court agrees that the remedies of provisional dismissal and the issuance of a bench warrant were available to both the prosecution and the trial court during trial proper. However, there was nothing in the records that would show that the prosecution sought the issuance of a bench warrant. Likewise, there was no indication that the prosecution sought the provisional dismissal of the case under Sec. 8, Rule 117 of the Rules of Court. Admittedly, the trial court could have directed the prosecution to submit documentary evidence to prove the guilt of accused-appellant. Nonetheless, these considerations should not weigh in the mind of the Court in resolving the instant case.

The sole duty of the appellate court in the instant case is to determine whether the trial court discharged its three-fold duty under Sec. 3, Rule 116 of the 2000 Revised Rules. Again, the three-fold duty of the trial court is to (1) conduct a searching inquiry, (2) require the prosecution to prove the accused's guilt and precise degree of culpability, and (3) allow the accused to present evidence on his behalf.

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[123] *People v. Asis,* supra note 116 at 728. (emphasis supplied)
[124] *Barut v. People*, 744 Phil. 20, 27 (2014).
[125] Id.

It is established that the trial court failed to discharge its duties. Thus, the sole question before the Court, then, is what the result is of such failure on the part of the trial court. This is the question to be resolved. It is submitted that the failure of the prosecution to move for provisional dismissal, the failure of the trial court to issue a bench warrant, and the failure of the trial court to order the presentation of documentary evidence is irrelevant in resolving the instant issue. What is clear is that the trial court afforded the prosecution reasonable opportunity to prove accused-appellant's guilt and precise degree of culpability but the prosecution failed to do so. Despite such failure, the trial court convicted accused-appellant based solely on his plea of guilt. To delve into what the RTC and the prosecution should have done, outside of their duties as outlined in Sec. 3, Rule 116, is beyond the pale.

Fifth, it must be clarified that the trial court indeed obliged the prosecution to present its evidence despite a plea of guilty on the part of accused-appellant. This is extant in the records and described in the early portions of this Decision. The records undisputedly show that the insistence of Mr. Justice Gaerlan and Madame Justice Javier that the trial court failed to or even negligently ordered the prosecution to present evidence despite the guilty plea is without basis. At this point, We reiterate the narration of events in the early portions of this Decision:

> In its August 20, 2009 Order, the RTC, in specific recognition of the duties imposed by Sec. 3 of Rule 116, stated that "WHEREFORE, premise considered and in consonance to the rules as to the plea of guilty to the capital offense, let the trial and presentation of first prosecution witness to determine the culpability of the accused on May 5, 2010 at 8:30 o'clock in the morning session of this Court." On February 24, 2010, it issued a subpoena to Angelito Pagal, Cesar Jarden, and Emelita Calupas to appear and testify before it on the said date.
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> On November 22, 2010, the RTC issued another subpoena directed to Angelito Pagal to appear before it on February 22, 2011 at 8:30 in the morning. This was received by a certain Malima Pagal and Angelito Pagal on December 15, 2010. On January 12, 2011, Subpoena/Warrant Server SPO1 Antonino R. Cabal PNP certified that the subpoena was duly served and received.
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> In the February 22, 2011 Order, the RTC noted that "[s]upposed witness is Angelito P. Pagal who was subpoenaed by this court and properly served upon his person. However, his absence is very conspicuous to this court. The prosecution is so

desirous to present prosecution witnesses to determine the culpability of the accused who readily pleaded guilty to the crime charged, requested that other witnesses be subpoenaed for them to testify in court in the event that Angelito Pagal could not come to court on the next setting." It then set the trial and presentation of any prosecution witness on May 11, 2011 at 8:30 in the morning. It ordered a repeat subpoena be issued to Angelito Pagal, Cesar G. Jarden and Jaimelito Calupas.

The repeat subpoena was issued to said prosecution witnesses on March 4, 2011. Included in the subpoena was Dr. Radegunda Uy, RHU, LGU, Matalom, Leyte. This was duly received by all four (4) subpoenaed witnesses as indicated in the receiving copy. On April 11, 2011, Subpoena/Warrant Server SPO1 Antonino R. Cabal PNP certified that the subpoena was duly served and received by all four subpoenaed witnesses.

In its May 11, 2011 Order, the RTC once more noted that "[t]he prosecution is serious enough to prove the degree of culpability of the accused Brendo Pagal who pleaded guilty to the crime charged of murder but for several times there were absences made by the prosecution witness despite proper service of subpoena or notices. The prosecution on this situation requested for a resetting and in the event no prosecution witness would appear and testify, this case is submitted to the x x x discretion of this court inviting the degree of culpability." The RTC then set the trial and presentation of prosecution witness on July 20, 2011 at 8:30 o'clock in the morning. It sent another repeat subpoena to Angelito Pagal, Cesar Jarden, and Dr. Radegunda Uy. On June 8, 2011, the RTC issued the repeat subpoena to said three witnesses and also included Jaimelito Calupas therein. This was received by Angelito Pagal, Elesia Jarden on behalf of Cesar Jarden, "Teresita" Calopay on behalf of Jaimelito Calupas, and by Dr. Radegunda Uy as shown by the receiving copy.

In its July 20, 2011 Order, the RTC stated that "[t]he prosecution after having exerted its effort to present any prosecution witness in determining the degree of culpability of the accused who pleaded guilty to the crime charged, has no one to be presented. On this matter, the prosecution now submitted the case for decision and as joined by the defense who has also no witness to be presented." (citations omitted)

Based on the foregoing, in no manner can it be concluded that the trial court did not oblige the prosecution to present its evidence or exert efforts to secure the presence of the four (4) prosecution witnesses. It is worthy to note that one of the prosecution witnesses, Dr. Radegunda Uy, appears to be a third party. The failure of the prosecution to present her as a witness, despite the numerous subpoenas issued and which she duly received, is telling.

Again, at the risk of sounding repetitious, the second duty imposed on the trial court by Sec. 3, Rule 116 is to require the prosecution to prove the guilt and precise degree of culpability of the accused to the capital offense he pleaded guilty to. The trial court afforded the prosecution the opportunity to present its evidence. The prosecution failed to do so. As such, there is no evidence in support of accused-appellant's conviction. Despite this, the trial court convicted accused-appellant. The failure of the prosecution to prove the guilt of accused-appellant should necessarily result in his acquittal, especially because there is no ambiguity in Sec. 3, Rule 116. The prosecution must prove the guilt of accused-appellant despite his plea of guilty. Absent such proof, he must be acquitted as mandated by the constitutional presumption of innocence.

It must also be respectfully pointed out that, contrary to the characterization of Mr. Justice Gaerlan, Mr. Justice Lopez,[126] and Mr. Justice Delos Santos[127] in their respective opinions, accused-appellant's plea is not a "voluntary plea of *guilty*."[128] Accused-appellant did not enter a "free, truthful, and voluntary plea of *guilty* to the crime of murder."[129] As has been established, said plea cannot be taken, in any manner whatsoever, as free, voluntary, and truthful because it did not benefit from the guidance of a searching inquiry as required by Sec. 3, Rule 116.

This brings us to the sixth argument for the remand of the instant case.

Mr. Justice Gaerlan asserts that there was undue reliance on the part of both the prosecution and the defense upon an "invalid plea of guilty"[130] which prevented them from fully presenting their respective evidence.[131] Thus, consistent with *Molina*[132] and *People v. Murillo (Murillo),*[133] this

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[126] Mr. Justice Lopez opined that "the remand of this case is proper to afford the State its right to penalize the accused based on the crime he voluntarily pleaded." (*Reflections of J. Lopez,* p. 2).
[127] Mr. Justice Delos Santos stated that "[t]he accused Brendo P. Pagal (accused) in this case entered a free, truthful, and voluntary plea of *guilty* to the crime of murder against victim Selma Pagal (Selma)." (*Reflections of J. Delos Santos,* p. 1.)
[128] *Reflections of J. Gaerlan,* p. 5.
[129] *Reflections of J. Delos Santos,* p. 1.
[130] *Reflections of J. Gaerlan,* p. 5.
[131] Id. at 5-6.
[132] Supra note 69.
[133] Supra note 86.

undue reliance necessitates the remand of the case to the trial court for re-arraignment and re-trial.

Regrettably, the Court does not agree that, in the instant case, the prosecution and the defense unduly relied upon the plea of guilty by accused-appellant such that a remand of the case is proper.

The rulings in *Molina,* and *Murillo,* particularly on the undue reliance exhibited by the prosecution and the defense therein on the accused's plea of guilty, do not apply in the instant case because the facts differ from one another.

The undue reliance determined to be present by the Court in these two cases is not the failure of the prosecution to present evidence. Rather, it is the failure of the prosecution to prove its case as evidenced by its approach and attitude, as well as the failure of the defense to faithfully protect the rights of the accused. In both cases, the Court harbored serious doubts as to the guilt of the accused because the defense failed to protect the interests of the accused despite the inculpatory evidence presented therein by the prosecution.

In *Molina,* "x x x the prosecution evidence consisted of (a) the testimonies of Brenda, her mother, the police investigators, a *barangay* councilor, and the medico-legal officer, and (b) certain documents, *e.g.,* the birth certificate of Brenda, the medico-legal certificate, and the letter of accused-appellant to his daughter Brenda begging the latter's forgiveness. While the defense counsel cross-examined the prosecution witnesses, he did not introduce any evidence in behalf of accused-appellant."[134]

The finding that the improvident plea of guilt of accused-appellant affected the manner by which the prosecution and the defense conducted its presentation of the evidence, and the trial court in carefully evaluating the evidence on record, was based on specific instances carefully outlined in the decision, *viz.:*

> x x x. *First,* the prosecution failed to lay the proper foundation for the introduction of the alleged handwritten letter of accused-appellant acknowledging his guilt for the rape of his daughter. This could very well be attributed to the fact that this letter was introduced only after accused-appellant pleaded guilty to the accusations for which reason the prosecution no longer endeavored to elicit the proper foundation for this evidence.
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> x x x x

[134] Supra note 69 at 646.

Second, the presentation of the prosecution's case was lacking in assiduity and was not characterized with the meticulous attention to details that is necessarily expected in a prosecution for a capital offense. In his examination of Brenda after accused-appellant pleaded guilty, the public prosecutor was evidently concerned with abbreviating the proceedings as shown by his failure to clarify such ambiguous statements as "he repeated to me what he had done to me" when previously he pursued such ambiguities to their clear intended meanings. It is clear to our mind that the prosecution did not discharge its obligation as seriously as it should have had, had there been no plea of guilt on the part of the accused.

x x x x

Third, the prosecution could very well clarify why on 1 March 1999 after accused-appellant's wife saw him and Brenda sleeping side by side and after she confronted his husband about it and was told by her daughter that "if I will tell it to you, my father will kill us," accused-appellant was still allegedly able to attempt a rape on his daughter on the same date. It is our understanding of the behavior of gutter criminals that with the confrontation between him and his wife, he would have laid low a while even for just that day. The prosecution may want to elucidate on this seemingly unnatural behavior.

Fourth, neither the defense nor the prosecution elicited from the private complainant whether the accusations for incestuous rape and attempted rape were in a manner colored by the seething allegations in the transcript of stenographic notes that accused-appellant was a violent person towards his family, most especially his wife who is Brenda's mother. This Court would want to know for sure that these criminal cases under review are not merciless equivalents of the alleged violence done by accused-appellant. Our endeavor is to try the case on the facts and not upon the supposedly despicable character of the man.

Fifth, the improvident plea appears to have sent the wrong signal to the defense that proceedings thereafter would be abbreviated. There was thus a perfunctory representation of accused-appellant as shown by (a) his counsel's failure to object to and correct the irregularities during his client's re-arraignment; (b) his failure to question the offer of the alleged letter wherein accused-appellant acknowledged his authorship of the dastardly crimes; (c) his failure to present evidence in behalf of accused-appellant or to so inform the latter of his right to adduce evidence whether in support of the guilty plea or in deviation therefrom; (d) his failure to object to his client's warrantless arrest and the designation of the crime in Crim. Case No. 99-02821-D as attempted rape when the evidence may appear not to warrant the same; and, (e) his failure to file a notice of appeal as regards Crim. Case No. 99-02821-D to the Court of Appeals for appropriate review. This Court perceives no reasonable basis for excusing these omissions as counsel's strategic decision in his handling of the case. Rather, they constitute inadequate representation that renders the result of the trial suspect or unreliable, and as we explained in *People v. Durango*, in violation of the right to counsel of accused-appellant

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The flawed re-arraignment of accused-appellant and the invalid admission of his supposed letter-admission were caused by the omission of minimal standards for a searching inquiry in the former and the admissibility of private documents in the latter. We cannot conceive any reasonable legal basis to explain the oversight to contest these errors.

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The accusation and conviction of accused-appellant for attempted rape in Crim. Case No. 99-02821-D were based on the testimony of Brenda that she was watching television when her father unexpectedly sat beside her, pushed her to the floor, went on top of her, and *with their clothes on*, wiggled his hips while drubbing his penis on her unexposed vagina. As she further testified, her friends suddenly called out her name from the house's frontage since they were supposed to attend a wake at a relative's house, and the unexpected visitors forced accused-appellant to stop his prurient motions. Considering these allegations, the defense could have plausibly argued accused-appellant's absence of intent to lie with the victim, or given accused-appellant's alleged willingness to plead guilty, at least conferred with the latter to inquire from him if he did have the intention then to have carnal knowledge of his daughter since the crime may constitute acts of lasciviousness and not the crime charged.

Still, as regards the conviction for attempted rape, this Court notes the conspicuous absence of a Notice of Appeal to the Court of Appeals for proper review. It was necessary to file such notice since the conviction does not fall under Sec. 17, par. (1), RA 296 (*The Judiciary Act of 1948*) as amended which outlines our jurisdiction over "[a]ll criminal cases involving offenses for which the penalty imposed is death or life imprisonment; and those involving other offenses which, although not so punished, arose out of the same occurrence or which may have been committed by the accused on the same occasion, as that giving rise to the more serious offense x x x."

x x x x

This omission is fatal since ordinarily the conviction for attempted rape would by now be already final and executory. No doubt this omission was caused by accused-appellant's improvident plea of guilty that led the public defender to simply shorten the proceedings. Given that the plea of guilty has been set aside, effective counseling would have nonetheless dictated the institution of at least a precautionary appeal to the appellate court if only to assure protection of his client's rights.

Sixth, for whatever reason, accused-appellant had not found a voice in the proceedings *a quo*. Oddly from the preliminary investigation to the promulgation of judgment his version was never heard of even if prior to his re-arraignment he appeared adamant at denying the crimes charged against him. This situation is lamentable since at the preliminary investigation of a criminal case the Constitution requires that an accused be informed of his right to counsel and provided with a lawyer if he cannot

afford to hire one, and that a waiver of these rights requires the assistance of counsel.

While it is true that unrebutted evidence provides itself an effective corroboration, we cannot give credence to this rule given the circumstances under which such deficiency came about. For one, had the trial court correctly implemented the corresponding rules on plea of guilty, we may not be having this situation where only the private complainant was heard. The absence of the transcripts of stenographic notes of the arraignment proceedings already denies us "full opportunity to review the cases fairly and intelligently." After having set aside the plea of guilty, we could never be sure that accused-appellant would waive telling his version of the story, or that the facts would still be the same after we hear him say his side. Moreover, the sad fact of this omission is that obviously we could have learned more about the crimes alleged by the prosecution if accused-appellant had also participated meaningfully in all the proceedings below. His voice could better assure the fairness of any action for or against him. As in similar situations, we should achieve such comforting posture if the court *a quo* is required to establish with moral certainty the guilt of accused-appellant who allegedly wanted to confess his guilt by requiring him to narrate the incident or making him reenact it, or by causing him to furnish the missing details.

Lastly, the idea that in our midst runs a paucity of facts is substantiated by the assailed Decision of the trial court itself. It bewailed the sloppy pacing of the trial proper, but in coming up with the judgment of conviction barely summed up the testimony of the private complainant and other prosecution evidence. **No reason is given why the trial court found the testimonies of the prosecution witnesses credible except for the bare statement that Brenda wept while on the witness stand and the inadmissible letter allegedly from accused-appellant admitting the charges against him. The assailed Judgment fails to state, in short, the factual and legal reasons on which the trial court based the conviction**, contrary to Sec. 2 of Rule 120, *1985 Rules on Criminal Procedure*. Thus even the Decision lacks the "assurance to the parties that, in reaching judgment, the judge did so through the processes of legal reasoning x x x a safeguard against the impetuosity of the judge, preventing him from deciding by *ipse dixit*."[135] (emphases supplied)

It is apparent from the foregoing that the Court, in *Molina,* harbored serious doubts as to the guilt of therein accused on the basis of the evidence presented during trial proper, as well as the kind of protection extended by the defense counsel. The specific instances it cited to support its conclusion that the prosecution and the defense unduly relied on the plea of guilt is undeniable.

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[135] *People v. Molina*, supra note 69 at 653-662.

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In contrast, there are no specific instances in the case at bench that would point to the supposed undue reliance of the prosecution and the defense on accused-appellant's plea of guilt. It must also be noted that the prosecutors were optimistic in presenting their evidence-in-chief every time they asked for continuance from the trial court. This attitude of the prosecution is a far cry from what *Molina* or *Murillo* describes as undue reliance on the guilty plea. As shown in the Orders of the trial court granting continuance in favor of the prosecution, the latter did not take the case for granted due to the fact that accused-appellant pleaded guilty. Neither should the inaction of accused-appellant be considered as undue reliance to the guilty plea because his inaction to participate stems from his right to remain silent throughout the proceedings.

Be that as it may, in this case, the only thing clear from the records is that the prosecution was afforded reasonable opportunity, in the form of four (4) separate hearing dates, to present its evidence. When its witnesses did not appear, the prosecution, together with the defense, submitted the case for decision. [136] The defense's choice not to present evidence is wholly understandable in the face of the lack of evidence presented by the prosecution. The rule in criminal proceedings is clear; it is the burden of the prosecution to present evidence to prove the guilt of the accused beyond reasonable doubt. The accused need not present evidence to prove his defense.[137]

Meanwhile, in *Murillo,* the Court ordered the remand of the case due to the improvident plea of guilt and the lackluster defense afforded the accused therein by his counsel. In a marked difference from the instant case, the prosecution therein had, in fact, established the facts of the case through the testimony of therein accused, as hostile witness, and its other witnesses. The Court's recital of facts in *Murillo* was expressly prefaced with the statement that the prosecution's witnesses established the following facts.[138] However, the Court deemed it proper to remand the case because the defense failed to faithfully protect the rights of therein accused in the face of the evidence mounted by the prosecution. The Court's disquisition on the matter is as follows:

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[136] *Rollo,* p. 5; *records,* p. 54.

[137] See *Macayan, Jr., v. People*, 756 Phil. 202, 214 (2015).

[138] "The prosecution presented Sancho Ferreras, brother of the victim; barangay tanod Ramon Saraos; SPO2 Angel Nieves of the Parañaque Police; and NBI Medico-legal Officer Ludivino Lagat. They established the following facts: x x x" (*People v. Murillo,* supra note 86 at 452).

The failure of the defense counsel to faithfully protect the rights of appellant also cannot go unnoticed. Records show that defense counsel Atty. Dante O. Garin, never cross-examined three of the four witnesses of the prosecution, namely Sancho Fereras, Ramon Saraos, and Dr. Ludivino Lagat. The only prosecution witness he cross-examined was SPO2 Nieves to whom he asked four questions pertaining only as to how the police came to the conclusion that the body parts belong to Paz Abiera. Apart from these, no other questions were ever offered.

There is also no record anywhere that the defense counsel presented evidence for the accused nor that the trial court even inform him of his right to do so if he so desires.

For these reasons, it cannot be said that the appellant's rights were observed in the proceedings *a quo*.

It is well established that the due process requirement is part of a person's basic rights and is not a mere formality that may be dispensed with or performed perfunctorily. An accused needs the aid of counsel lest he be the victim of overzealous prosecutors, of the law's complexity or of his own ignorance and bewilderment. Indeed, the right to counsel springs from the fundamental principle of due process. The right to counsel, however, means 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 sufficiently accorded legal assistance extended by a counsel who commits himself to the cause for the defense and acts accordingly. This right necessitates 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. Indeed, the right of an accused to counsel finds meaning only in the performance by the lawyer of his sworn duty of fidelity to his client and an efficient and truly decisive legal assistance which is not just a simple perfunctory representation.

Atty. Garin, had the duty to defend his client and protect his rights, no matter how guilty or evil he perceives appellant to be. The performance of this duty was all the more imperative since the life of appellant hangs in the balance. As a defense counsel, he should have performed his duty with all the zeal and vigor at his command to protect and safeguard appellant's fundamental rights.

While our jurisdiction does not subscribe to a *per se* rule that once a plea of guilty is found improvidently he is at once entitled to a remand, the circumstances of this case warrant that a remand to the trial court be made. To warrant a remand of the criminal case, the Court has held that it must be shown that as a result of such irregularity there was inadequate representation of facts by either the prosecution or the defense during the trial. Where the improvident plea of guilty was followed by an abbreviated proceeding with practically no role at all played by the defense, we have ruled that this procedure was just too meager to accept as being the

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> standard constitutional due process at work enough to forfeit a human life. What justifies the remand of the criminal case to the trial court is the unfairness or complete miscarriage of justice in the handling of the proceedings *a quo* as occasioned by the improvident plea of guilt. In this case, apart from the testimony of appellant, the prosecution does not have any other evidence to hold him liable for the crime charged."[139] (citations omitted, emphasis supplied)

All told, it is apparent that in *Molina* and *Murillo,* the evidence presented by the prosecution, uncontested and untested by the defense, could have resulted in the conviction of the accused therein. However, the failure of the defense to mount the proper legal defense on behalf of therein accused cast serious doubts on the evidence presented by the prosecution. Thus, the Court, in an effort to balance the interests of both the State and the victim, opted to remand the case in order to rid itself of any doubts as to the guilt of the therein accused.

While the Court understands that some of its Members believe that such similar balancing is needed in the instant case, the Court fails to see any rationale for such course of action. The choice of the defense herein not to present evidence cannot be attributed to the plea of guilty made by accused-appellant. The defense appears to have chosen not to present evidence because there was no inculpatory evidence to rebut or contradict. In the face of the failure of the prosecution to prove beyond reasonable doubt the guilt of accused-appellant, the defense rested its case. As previously noted by this Court, "if the prosecution fails to meet the required quantum of evidence, the defense may logically not even present evidence on its behalf. In which case, the presumption of innocence shall prevail and, hence, the accused shall be acquitted."[140]

The prosecution's failure, on the other hand, cannot be said to have been due to the plea of guilty made by accused-appellant. There is no specific conduct or specific utterance that would lend credence to such conclusion. The mere failure of the prosecution, absent any proof of the whys and hows, cannot be used as rationale for a remand. This is especially true because the prosecution was not lacking in any opportunity to raise any justifying reasons for its failure. Thus, to remand the case absent such proof would be to unduly favor the State at the expense of the accused. To stress once more, it would be unjust and contrary to the constitutional presumption of innocence. All doubts must be resolved in favor of the accused.

Finally, Madame Senior Associate Justice Perlas-Bernabe argues that the instant case be remanded because the lack of a valid plea taints the entire criminal proceedings and precludes the trial court from rendering a valid

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[139] *People v. Murillo,* supra note 86 at 463-465.
[140] *People v. Lorenzo*, 633 Phil. 393, 401 (2010).

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verdict.[141] This, according to Mr. Justice Lopez, necessitates the remand of the instant case so that the Court may render a valid verdict.

The Court respectfully disagrees.

As previously mentioned, it would be a mistake to assume or conclude that an invalid arraignment automatically results in a remand of the case.

In *Ong,*[142] the Court, speaking through Chief Justice Reynato Puno, decided the case on its merits despite a determination of an invalid arraignment. In fact, the Court therein acquitted the two accused.

In said case, the Court found that the arraignment of therein two (2) accused violated the requirement that the information be read in a language or dialect known to them. It was observed that therein two accused were Chinese nationals who were unable "to fully or sufficiently comprehend any other language than Chinese and any of its dialect. Despite this inability, however, the [accused therein] were arraigned on an Information written in the English language."[143]

The Court declared that "[W]e again emphasize that the requirement that the information should be read in a language or dialect known to the accused is mandatory. It must be strictly complied with as it is intended to protect the constitutional right of the accused to be informed of the nature and cause of the accusation against him. The constitutional protection is part of due process. **Failure to observe the rules necessarily nullifies the arraignment.**"[144]

Nonetheless, despite such express finding of an invalid arraignment, the Court proceeded to discuss the merits of said case and, ultimately, found that the two accused should be acquitted.

Meanwhile, in *People v. Crisologo,*[145] the Court, through Senior Associate Justice Teodoro R. Padilla, decided the case on the merits despite the accused, who was deaf-mute, having been arraigned without an interpreter for the sign language. Similar to *Ong,* the Court did not order the remand of the case despite the invalid arraignment but, rather, acquitted the accused.[146]

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[141] *Reflections of J. Perlas-Bernabe,* p. 1.
[142] Supra note 89.
[143] Id. at 565.
[144] Id. (emphasis supplied)
[145] 234 Phil. 644 (1987).
[146] Id. at 653.

On the basis of the foregoing, and by reason of parity, it is respectfully submitted that an invalid arraignment does not automatically result in the remand of the case. While it is true that a judgment of conviction cannot stand on an invalid arraignment, a judgment of acquittal may proceed from such invalid arraignment. The invalid arraignment itself is ground for acquittal.

The proposal to remand, if carried out, may very well violate accused-appellant's right to speedy disposition of cases

At this juncture, it must be emphasized that accused-appellant was indicted with the charge of murder on July 10, 2009.[147] Since the issuance of the warrant of arrest against him last July 22, 2009 or about (11) eleven years ago, accused-appellant remains under preventive detention.[148] Upon conviction by the trial court, he was transferred to the National Penitentiary in Muntinlupa on November 28, 2015.[149] If the proposal to remand is adopted, he will remain imprisoned during the re-trial. This begs the question whether such course of action would be a violation of accused-appellant's constitutional right to speedy disposition of cases.

Sec. 16, Article III of the 1987 Constitution guarantees the constitutional right to speedy disposition of cases. It provides that "[a]ll persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies."

Initially embodied in Sec. 16, Article IV of the 1973 Constitution, the aforesaid constitutional provision is one of three (3) provisions mandating speedier dispensation of justice. It guarantees the right of all persons to 'a speedy disposition of their case'; **includes within its contemplation the periods before, during and after trial,** and affords broader protection than Sec. 14(2), which only guarantees the right to a speedy trial. It is more embracing than the protection under Article VII, Sec. 15, which covers only the period after the submission of the case. The present constitutional provision applies to civil, criminal and administrative cases.[150]

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[147] *Records*, pp. 10-11.
[148] Id. at 14.
[149] CA *rollo*, p. 43.
[150] *Dansal v. Fernandez, Sr.*, 383 Phil. 897, 905 (2000).

The Court's disquisition in *Corpuz v. Sandiganbayan*[151] is illuminating:

> The right of the accused to a speedy trial and to a speedy disposition of the case against him was designed to prevent the oppression of the citizen by holding criminal prosecution suspended over him for an indefinite time, and to prevent delays in the administration of justice by mandating the courts to proceed with reasonable dispatch in the trial of criminal cases. Such right to a speedy trial and a speedy disposition of a case is violated only when the proceeding is attended by vexatious, capricious and oppressive delays. The inquiry as to whether or not an accused has been denied such right is not susceptible by precise qualification. The concept of a speedy disposition is a relative term and must necessarily be a flexible concept.
>
> While justice is administered with dispatch, the essential ingredient is orderly, expeditious and not mere speed. It cannot be definitely said how long is too long in a system where justice is supposed to be swift, but deliberate. It is consistent with delays and depends upon circumstances. It secures rights to the accused, but it does not preclude the rights of public justice. Also, it must be borne in mind that the rights given to the accused by the Constitution and the Rules of Court are shields, not weapons; hence, courts are to give meaning to that intent.
>
> A balancing test of applying societal interests and the rights of the accused necessarily compels the court to approach speedy trial cases on an *ad hoc* basis.
>
> In determining whether the accused has been deprived of his right to a speedy disposition of the case and to a speedy trial, four factors must be considered: (a) length of delay; (b) the reason for the delay; (c) the defendant's assertion of his right; and (d) prejudice to the defendant. **Prejudice should be assessed in the light of the interest of the defendant that the speedy trial was designed to protect, namely: to prevent oppressive pre-trial incarceration; to minimize anxiety and concerns of the accused to trial; and to limit the possibility that his defense will be impaired.** Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system. There is also prejudice if the defense witnesses are unable to recall accurately the events of the distant past. Even if the accused is not imprisoned prior to trial, he is still disadvantaged by restraints on his liberty and by living under a cloud of anxiety, suspicion and often, hostility. His financial resources may be drained, his association is curtailed, and he is subjected to public obloquy.
>
> Delay is a two-edge sword. It is the government that bears the burden of proving its case beyond reasonable doubt. **The passage of time may make it difficult or impossible for the government to carry its burden.** The Constitution and the Rules do not require impossibilities or extraordinary efforts, diligence or exertion from courts or the prosecutor,

[151] 484 Phil. 899 (2004).

> nor contemplate that such right shall deprive the State of a reasonable opportunity of fairly prosecuting criminals. As held in *Williams v. United States*, for the government to sustain its right to try the accused despite a delay, it must show two things: (a) that the accused suffered no serious prejudice beyond that which ensued from the ordinary and inevitable delay; and (b) that there was no more delay than is reasonably attributable to the ordinary processes of justice. [152] (citations omitted, emphases supplied)

It is respectfully submitted that the resulting delay in the disposition of the instant case, if the proposal to remand is carried out, would be prejudicial to accused-appellant. As mentioned, accused-appellant was charged with murder in the year 2009. The incident involving the death of Selma occurred in 2008. He has been languishing in jail since 2009[153] and he will continue to be incarcerated during the period of the re-trial. At this point in time, accused-appellant has been incarcerated for more or less eleven (11) years. To require that he undergo re-trial, when the failure of the prosecution to prove his guilt beyond reasonable doubt was through no fault of his, is unreasonably oppressive.

Further, the resulting delay in the disposition of this case, if it were remanded, cannot be characterized, in any manner, as being reasonably attributable to the ordinary processes of justice. It cannot be denied that the decision to remand is in order to afford the prosecution another opportunity to prove what it failed to do the first time around: the guilt of accused-appellant. This cannot be characterized as an ordinary process of justice. After all, the ordinary process of justice demands that the accused be acquitted when his guilt is not proven beyond reasonable doubt after trial.

As a practical point, it must also be noted that the incident involving the death of Selma occurred in 2008. More than twelve (12) years has passed since then. The likelihood of the prosecution witnesses remembering with certainty the events surrounding the incident is miniscule. Any defense witness would also likely have a hard time recalling the events surrounding that fateful day. Thus, the defense would likely be impaired due to the passage of time. This is prejudicial to accused-appellant.[154]

The Court is aware of the esteemed Madame Senior Associate Justice Perlas-Bernabe's proposition that accused-appellant's failure to timely raise

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[152] Id. at 917-918.

[153] Records, p. 14.

[154] In *Inocentes v. People*, the Court held that "[p]lainly, the delay of at least seven (7) years before the informations were filed skews the fairness which the right to speedy disposition of cases seeks to maintain. Undoubtedly, the delay in the resolution of this case prejudiced Inocentes since the defense witnesses he would present would be unable to recall accurately the events of the distant past." (789 Phil. 318, 337, (2016).

the violation of his right to speedy disposition of cases amounts to a waiver of such right.

Respectfully, the Court cannot join such proposition. As things stand right now, there was no violation of accused-appellant's right to speedy disposition of cases. A violation would arise only when the Court adopts the position of the other Members of the Court to remand the case for re-trial. Such act of the Court is the triggering mechanism which would give rise to the violation of accused-appellant's right to speedy disposition of cases. In other words, there is no waiver of the right to speedy disposition of cases as yet because there is no violation of the right as of now. Therefore, accused-appellant could not have validly waived his right to speedy disposition of cases.

In *People v. Monje (Monje),*[155] the accused therein, who was charged with three (3) others for the crime of rape with homicide involving a 15-year old, was acquitted by the Court due to insufficiency of evidence. On the proposal to remand the case to allow further proceedings, the Court *En Banc,* speaking through Senior Associate Justice Josue N. Bellosillo, had this to say:

> A proposal has been expressed for the remand of this case to the trial court for further proceedings, apparently to enable the prosecution to prove again what it failed to prove in the first instance. We cannot agree because it will set a dangerous precedent. Aside from its being unprocedural, it would open the floodgates to endless litigations because whenever an accused is on the brink of acquittal after trial, and realizing its inadequacy, the prosecution would insist to be allowed to augment its evidence which should have been presented much earlier. **This is a criminal prosecution, and to order the remand of this case to the court *a quo* to enable the prosecution to present additional evidence would violate the constitutional right of the accused to due process, and to speedy determination of his case. The lamentable failure of the prosecution to fill the vital gaps in its evidence, while prejudicial to the State and the private offended party, should not be treated by this Court with indulgence, to the extent of affording the prosecution a fresh opportunity to refurbish its evidence.**
>
> **In fine, we are not unmindful of the gravity of the crime charged; but justice must be dispensed with an even hand. Regardless of how much we want to punish the perpetrators of this ghastly crime and give justice to the victim and her family, the protection provided by the *Bill of Rights* is bestowed upon all individuals, without exception, regardless of race, color, creed, gender or political**

[155] 438 Phil. 716 (2002).

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> **persuasion — whether privileged or less privileged — to be invoked without fear or favor.** Hence, the accused deserves no less than an acquittal; *ergo*, he is not called upon to disprove what the prosecution has not proved.[156] (emphases supplied)

While *Monje* admittedly did not involve a plea of guilty, improvident or not, the Court's aforequoted statement equally applies in the case at bar for the simple reason that, with the advent of the 1985 Rules which introduced Sec. 3 of Rule 116, the plea entered by an accused in criminal cases involving a capital offense is negligible. It is as if he entered a plea of not guilty. His guilt must be proven beyond reasonable doubt. Absent such proof, he must be acquitted as is necessitated by due process.

Confluence of errors committed by the prosecution, the defense, and the trial court are egregious and an affront to justice

The final nail in the coffin, so to speak, is the confluence of errors perpetrated by the perennial actors in Our criminal justice system. Three (3) principal actors play an integral part in the administration of criminal justice in Our jurisdiction. These principal actors are the public prosecutor, the defense, and the trial court. The result of acquittal in the instant case was ordained by the actuations of these three principal actors.

The prosecution, despite the numerous opportunities and aid offered to it in the form of repeat subpoenas, miserably failed to present its case for the conviction of accused-appellant. We remind the prosecution that "[t]he role of the fiscal or prosecutor as We all know is to see that justice is done x x x Thus, x x x, it is the duty of the fiscal to proceed with the presentation of evidence of the prosecution to the Court to enable the Court to arrive at its own independent judgment as to whether the accused should be convicted or acquitted."[157]

On the other hand, the defense failed to mount any kind of protection on behalf of its client, accused-appellant. While it is true that the defense was well-within its rights not to present evidence on account of the prosecution's non-presentation, as well as the right of the accused to remain silent, the defense's failure to object to the grievous noncompliance with

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[156] Id. at 735-736.
[157] *Crespo v. Mogul,* 235 Phil. 465, 475 (1987).

Sec. 3, Rule 116, particularly on the requirement for a searching inquiry, is an absolute failure on its part to protect the rights of accused-appellant.

Lastly, the trial court completely failed to discharge its duties under Sec. 3, Rule 116. It did not conduct the mandated searching inquiry. It convicted accused-appellant despite the failure of the prosecution to prove his guilt beyond reasonable doubt. It failed to comply with the guidelines laid down in *People v. Bodoso*[158] for the waiver by the accused of his right to present evidence under Sec. 3, Rule 116. But, above all, the most appalling mistake committed by the trial court lies in its *fallo:*

> **WHEREFORE,** in view of the foregoing, accused BRENDO P. PAGAL alyas "DINDO" is hereby found GUILTY beyond reasonable doubt and sentenced to suffer the imprisonment of RECLUSION PERPETUA. And to pay the heirs of SELMA PAGAL [₱]50,000.00 as indemnification and [₱]50,000.00 as moral damages.
>
> In the service of his sentence[,] accused is hereby credited with the full time of his preventive imprisonment if he agreed to abide by the same disciplinary rules imposed upon convicted prisoners, otherwise, he will only be entitled to 4/5 of the same.
>
> **SO ORDERED.**[159]

In *Velarde v. Social Justice Society*,[160] the Court stated the essential elements of a good decision. Particularly, "[i]n a criminal case, the disposition should include a finding of innocence or guilt, **the specific crime committed**, the penalty imposed, the participation of the accused, the modifying circumstances if any, and the civil liability and costs. In case an acquittal is decreed, the court must order the immediate release of the accused if detained, unless he/she is being held for another cause, and order the director of the Bureau of Corrections (or wherever the accused is detained) to report, within a maximum of ten (10) days from notice, the exact date when the accused were set free."[161]

Thus, the glaring absence in the *fallo* of the specific crime accused-appellant was convicted for by the trial court is so egregious and shocking that it appalls the sensibilities of the Court. At its core, the RTC Decision on which the conviction rests, and on which basis accused-appellant has been

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[158] Supra note 76.
[159] CA *rollo,* p. 40.
[160] 472 Phil. 285 (2004).
[161] Id. at 325.

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imprisoned for the past years, lacks a definitive statement as to what crime accused-appellant was being imprisoned for. Worse, what makes the error more atrocious is the fact that even on appeal, the appellate court failed to notice such basic and inexcusable mistake.

To remand in spite of this lackadaisical conviction, and the numerous transgressions committed by the trial court, the prosecution, and the defense, would be to countenance their fault, negligence, inattention, and lack of care at the expense of accused-appellant's constitutional rights to due process, presumption of innocence, and speedy disposition of cases. It would be to completely disregard the rights of accused-appellant for what is essentially a misguided attempt to vindicate the victim and her heirs. To remand would be nothing short of an egregious miscarriage of justice.

Lest it be misunderstood, the decision to acquit is not recompense to accused-appellant and penalty for the trial court and the State's failure to abide by Sec. 3, Rule 116. It is the result demanded by applicable law and jurisprudence.

At the end of day, the Court deeply feels and echoes the cry for justice for Selma and her family. However, such justice cannot be achieved at the expense of trampling on accused-appellant's constitutional rights to due process, presumption of innocence, and speedy disposition of cases. In that case, justice would not be justice at all. For while "[t]he sovereign power has the inherent right to protect itself and its people from vicious acts which endanger the proper administration of justice; hence, the State has every right to prosecute and punish violators of the law,"[162] "***in the hierarchy of rights, the Bill of Rights takes precedence over the right of the State to prosecute, and when weighed against each other, the scales of justice tilt towards the former.***"[163]

In all criminal prosecutions, the State bears the burden of establishing the guilt of the accused beyond reasonable doubt. When the State fails to overcome the presumption of innocence in favor of the accused, such as in this case, the accused must be acquitted and set free. No less than the precepts of justice and fairness demand this.

Here, the acquittal of accused-appellant is fair and just under the circumstances; that between the State and the accused, the latter should be

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[162] *Allado v. Judge Diokno,* 302 Phil. 213, 238 (1994).
[163] Id. (emphasis supplied)

given preference. Accused-appellant's acquittal is not just based on justice and fairness but also based on humanity as the accused should not be made to answer for the State's blunders.

Indeed, while justice is the first virtue of the court, yet admittedly, humanity is the second.[164]

Summary

For the guidance of the bench and the bar, this Court adopts the following guidelines concerning pleas of guilty to capital offenses:

1. AT THE TRIAL STAGE. When the accused makes a plea of guilty to a capital offense, the trial court must strictly abide by the provisions of Sec. 3, Rule 116 of the 2000 Revised Rules of Criminal Procedure. In particular, it must afford the prosecution an opportunity to present evidence as to the guilt of the accused and the precise degree of his culpability. Failure to comply with these mandates constitute grave abuse of discretion.

    a. In case the plea of guilty to a capital offense is supported by proof beyond reasonable doubt, the trial court shall enter a judgment of conviction.

    b. In case the prosecution presents evidence but fails to prove the accused's guilt beyond reasonable doubt, the trial court shall enter a judgment of acquittal in favor of the accused.

    c. In case the prosecution fails to present any evidence despite opportunity to do so, the trial court shall enter a judgment of acquittal in favor of the accused.

    In the above instance, the trial court shall require the prosecution to explain in writing within ten (10) days from receipt its failure to present evidence. Any instance of collusion between the prosecution and the accused shall be dealt with to the full extent of the law.

2. AT THE APPEAL STAGE:

    a. When the accused is convicted of a capital offense on the basis of his plea of guilty, whether improvident or not,

[164] *Padilla v. Court of Appeals*, 328 Phil. 1266, 1270 (1996).

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and proof beyond reasonable doubt was established, the judgment of conviction shall be sustained.

b. When the accused is convicted of a capital offense solely on the basis of his plea of guilty, whether improvident or not, without proof beyond reasonable doubt because the prosecution was not given an opportunity to present its evidence, or was given the opportunity to present evidence but the improvident plea of guilt resulted to an undue prejudice to either the prosecution or the accused, the judgment of conviction shall be set aside and the case remanded for re-arraignment and for reception of evidence pursuant to Sec. 3, Rule 116 of the 2000 Revised Rules of Criminal Procedure.

c. When the accused is convicted of a capital offense solely on the basis of a plea of guilty, whether improvident or not, without proof beyond reasonable doubt because the prosecution failed to prove the accused's guilt despite opportunity to do so, the judgment of conviction shall be set aside and the accused acquitted.

Said guidelines shall be applied prospectively.

WHEREFORE, the Court **GRANTS** the appeal; **REVERSES** and **SETS ASIDE** the May 8, 2018 Decision of the Court of Appeals in CA-G.R. CR-HC No. 01521; **ACQUITS** accused-appellant Brendo P. Pagal a.k.a. "Dindo" of the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code, for failure to prove his guilt beyond reasonable doubt; and **ORDERS** his **IMMEDIATE RELEASE** from detention unless he is confined for another lawful cause.

Let a copy of this Decision be furnished the Penal Superintendent, Leyte Penal Colony for immediate implementation and he is **ORDERED** to report the action he has taken to this Court within five (5) days from receipt of this Decision.

SO ORDERED.

ALEXANDER G. GESMUNDO
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice

Please see Dissenting Opinion
M.V.F. Leonen

ESTELA M. PERLAS-BERNABE
Associate Justice

I concur. See separate opinion

MARVIC M.V.F. LEONEN
Associate Justice

Left his vote, please see concurring opinion

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

See Dissenting Opinion

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

Please see Dissenting Opinion

RODIL V. ZALAMEDA
Associate Justice

Please see dissenting opinion

MARIO V. LOPEZ
Associate Justice

Left his vote, please see dissenting opinion

EDGARDO L. DELOS SANTOS
Associate Justice

pls. see dissenting opinion

SAMUEL H. GAERLAN
Associate Justice

(On Leave)

PRISCILLA J. BALTAZAR-PADILLA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

DIOSDADO M. PERALTA
Chief Justice

CERTIFIED TRUE COPY

EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court

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