

En Banc

Agenda for September 29, 2020

Item No. 17

G.R. No. 241257 – (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. BRENDON P. PAGAL a.k.a. “Dindo”, *accused-appellant*.)

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Promulgated: September 29, 2020

DISSENTING OPINION

GAERLAN, J.:

I disagree with the conclusion of the *ponencia* acquitting Brendon P. Pagal a.k.a. “Dindo” (appellant) of the crime of Murder.

The *ponencia* made an exhaustive narration of the evolution of the duty of trial courts in instances where the accused pleaded guilty to a capital offense. Thereafter, the *ponente* made the pronouncement that Section 3, Rule 116 of the 2000 Revised Rules of Court (Section 3, Rule 116)¹ is indeed mandatory. The *ponente* then summarized the duties of the trial court when accused pleads guilty to a capital offense, *viz.*:

- (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.²

Applying the foregoing conditions to the above-entitled case, the *ponente* concluded that the trial court failed to comply with these duties and declared that appellant made an improvident plea of guilt. Notwithstanding, the *ponente* acquitted appellant from the crime charged on the ground that the prosecution, despite being given its day in court, failed to present evidence to prove appellant’s guilt.

I respectfully beg to differ only as to the conclusion of the *ponente* acquitting appellant from the crime charged.

¹ Sec. 3. *Plea of Guilty to Capital Offense; Reception of Evidence.* – When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and shall require the prosecution to prove his guilt and the precise degree of culpability. The accused may present evidence in his behalf.

² *Ponencia*, p. 12, citing *People v. Gamba*, 718 Phil. 507, 520-521 (2013).

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At the outset, I do agree that the trial court failed to comply with its duties as enunciated by pertinent rules and jurisprudence resulting to appellant making an improvident plea of guilty to the offense of murder. This, however, does not automatically entitle the appellant to an acquittal.

To reiterate, it is established that Section 3, Rule 116 is mandatory. Based on this rule, there are three conditions that the trial court should comply with in order to forestall the entry of an improvident plea of guilty by the accused, namely:

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

Given the unchanging state of the three-tiered requisites in Section 3, Rule 116, there is, therefore, no justification for the trial court's failure to observe them.

Now, in a plethora of cases where the trial court failed to comply with these requisites resulting to the accused making an improvident plea of guilty to a capital offense, this Court has repeatedly remanded the case to the trial court for re-arraignment and further proceedings.

In the case of *People v. Nadera Jr.*,⁴ the Court in remanding the case to the trial court explained:

Convictions based on an improvident plea of guilt are set aside only if such plea is the sole basis of the judgment. If the trial court relied on sufficient and credible evidence to convict the accused, the conviction must be sustained, because then it is predicated not merely on the guilty plea of the accused but on evidence proving his commission of the offense charged.⁵ (Citation omitted)

x x x x

³ *People v. Dalacat*, 485 Phil. 35, 47 (2004).

⁴ 381 Phil. 484 (2000).

⁵ *Id.* at 499.

In view of the foregoing, we find it necessary to remand the case for the proper arraignment and trial of the accused, considering not only the accused's improvident plea of guilt but also his lawyer's neglect in representing his cause. A new trial has been ordered in criminal cases on the ground of retraction of witnesses, negligence or incompetency of counsel, improvident plea of guilty, disqualification of an attorney de officio to represent the accused in the trial court, and where a judgment was rendered on a stipulation of facts entered into by both the prosecution and the defense.⁶ (Citations omitted)

In *People v. Ernas*,⁷ this Court remanded the case to the trial court for re-arraignment and re-trial on the ground that accused was found to have made an improvident plea of guilty to three counts of rape, notwithstanding the fact, that the prosecution opted not to present the testimony of the complaining witnesses in support of accused's conviction, viz.:

It must be stressed that under the 1985 Rules of Criminal Procedure, **a conviction in capital offenses cannot rest alone on a plea of guilt. The prosecution evidence must be sufficient to sustain a judgment of conviction independently of the plea of guilt.**

We, therefore, cannot accept as valid the plea of guilty entered by the appellant to the three charges of rape. His re-arraignments as to the three charges are fatally flawed. The trial court erred in believing that the questions propounded to the appellant and the latter's answers as well as the documentary exhibits offered by the People would aid it in determining whether the accused really and truly understood and comprehended the meaning, full significance and consequences of his plea.

It likewise erred in allowing the prosecution to dispense with the testimonies of the complaining witnesses. As we have ruled, even if the trial court is satisfied that the plea of guilty was entered with full knowledge of its meaning and consequences, the introduction of evidence to establish the guilt and the degree of culpability of the accused is still required. Judges therefore must be cautioned, toward this end, 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.⁸ (Emphasis supplied and citations omitted)

Likewise, this Court, in the case of *People v. Molina*,⁹ while admitting that there is no strict rule that once a plea of guilty is found to be improvident the case needs to be remanded to the court *a quo*, made a categorical pronouncement that the unfairness or complete miscarriage of justice in the handling of the proceedings *a quo* as occasioned by the

⁶ Id. at 504.

⁷ 455 Phil. 829 (2003).

⁸ Id. at 842.

⁹ 423 Phil. 637 (2001).

improvident plea of guilt justifies the remand of the criminal case to the trial court,¹⁰ to wit:

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 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.”

Where facts are however 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 improvident plea of guilty, the settled rule is that a decision based on an irregular plea may nevertheless be upheld where the judgment is supported beyond reasonable doubt by other evidence on record since it would be a useless ritual to return the case to the trial court for another arraignment and further proceedings.¹¹ (Emphasis supplied and citations omitted.)

This was reiterated in the case of *People v. Murillo*,¹² thus:

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 standard constitutional due process at work

¹⁰ Id. at 652.

¹¹ Id. at 651-652.

¹² 478 Phil. 446 (2004).

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.**

In view of the foregoing, we find that it is imperative to remand the case for the proper arraignment and trial of the accused, considering not only the accused's improvident plea of guilt but also his lawyer's neglect in representing his cause.¹³ (Emphasis supplied. Citations omitted.)

The *ponencia* should have followed the foregoing precedence.

In the instant case, after appellant's plea of guilty to the crime of Murder, the prosecution failed to present any evidence to support his guilt. The appellant's counsel likewise opted to forego the presentation of the defense evidence. With the submission of the case for decision, the trial court convicted appellant for murder based solely on his improvident plea of guilt.

It may be deduced from the established facts 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. Otherwise stated, if not for the appellant's plea of guilt, the prosecution, as well as the defense, would have diligently presented their respective cases by presenting witnesses and adducing evidence in support thereof. Clearly, due to appellant's improvident plea of guilt there was inadequate representation of facts by the prosecution and defense during the trial. Such irregularity resulted to unfairness and complete miscarriage of justice in the handling of the proceedings *a quo*. This, in the words of this Court in the *Molina*¹⁴ and *Murillo*¹⁵ cases, justifies the remand of the criminal case to the trial court.

Furthermore, the failure of the prosecution to present witnesses on four hearing dates scheduled for such purpose is of no moment. While there was due notice of the hearing dates, the prosecution most probably deemed it unnecessary to present their witnesses. As earlier discussed, it may have heavily relied on appellant's plea of guilt, thinking that such admission is sufficient to convict him for the crime charged. Such omission, moreover, is

¹³ Id. at 464-465.

¹⁴ *People v. Molina*, supra note 9.

¹⁵ *People v. Murillo*, supra note 12.

not the lone fault of the prosecution but also of the trial court judge.

It bears stressing that the proposed *ponencia* 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. It is indubitable, therefore, that based on the *ponencia*, the trial court judge was guilty of negligence in his duty of ensuring that due process is observed despite a voluntary plea of guilt on the part of the appellant. The trial court judge should have been guided by the established rule that:

x x x [t]he presentation of evidence should be required in order to preclude any room for reasonable doubt in the mind of the trial court, or the Supreme Court on review, as to the possibility that there might have been some misunderstanding on the part of the accused as to the nature of the charge to which he pleaded guilty, and to ascertain the circumstances attendant to the commission of the crime which justify or require the exercise of a greater or lesser degree of severity in the imposition of the prescribed penalties.¹⁶

Accordingly, pursuant to the above-quoted jurisprudence and in compliance with the mandatory character of Section 3, Rule 116, the appellant should be given the opportunity to make a proper plea after ensuring that he is duly informed of the crime charged against him and the consequences of admitting to the commission thereof. Equally important, the prosecution should likewise be given another chance to present its case and prove the allegations in the information, including the qualifying, mitigating or aggravating circumstances, if any. It is important to note that these attending circumstances, if duly proven, will then determine the proper penalty to be imposed.

Needless to state, despite appellant's voluntary plea of guilt, the prosecution must and should prove the appellant's guilt for the crime charged and the precise degree of his culpability. If the prosecution fails to prove appellant's guilt beyond reasonable doubt for the crime of murder, or any other crime in connection thereto, then and only then may appellant be acquitted of the crime charged.

Moreover, acquitting the appellant due to the trial court's failure to

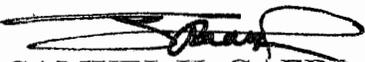
¹⁶ *People v. Dayot*, G.R. No. 88281, July 20, 1990, 187 SCRA 637, 642.

strictly comply with the rules on voluntary plea of guilt in capital offenses, particularly its failure to oblige the prosecution to present its evidence, will prejudice the victim and her kin who will be deprived of due process. They should not be made victims again, this time of the trial court who refused to diligently comply with the pertinent rules.

From all the foregoing, I humbly submit that due to the court *a quo*'s failure to comply diligently with the rules, a re-arraignment and re-trial is in order. With all due respect, instead of acquitting the appellant, the case should, therefore, be remanded to the trial court.

One final note, I humbly reiterate the pronouncement of this Court in *People v. Bello*,¹⁷ "let it be clearly understood that the administration of justice, including among other things, the punishment of guilty persons and the protection of the innocent, is the very reason for the existence of courts. While justice demands speedy administration, courts are in duty bound to be extra solicitous in seeing to it that when an accused pleads guilty he understands fully the meaning of his plea and the import of his inevitable conviction. Any court which abets injustice or neglects to ascertain the truth with the use of all the faculties at its command abdicates its most important function and forfeits its very right to existence."¹⁸

I vote to **DISMISS** the appeal.


SAMUEL H. GAERLAN
Associate Justice

¹⁷ 375 Phil. 277 (1999), citing *Nitafan, David G. Arraignment in Serious Offenses*, December 11, 1995, 251 SCRA 161.

¹⁸ *Id.* at 293-294.

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court