G.R. No. 241257 (*People of the Philippines v. Brendo P. Pagal*).

Promulgated:

September 29, 2020

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CONCURRING OPINION

PERALTA, *C.J.*:

I concur with the *ponencia* of Justice Alexander G. Gesmundo. I make this submission, however, in order to fully articulate my thoughts as to why appellant Brendo P. Pagal is entitled to be acquitted when his conviction for murder was set aside for being based solely on his plea of guilt.

A brief rundown of the antecedents is imperative.

Appellant Brendo Pagal was charged of murder, a capital offense, before a Regional Trial Court (*RTC*). During arraignment, he entered a guilty plea. Finding the plea to be in order, the RTC set four (4) hearing dates for the prosecution to present evidence to prove the guilt of the appellant and to determine the exact degree of his culpability. On the hearing dates, however, none of the prosecution witnesses appeared. For its part, the defense also chose not to present any evidence. Under such premises, the prosecution and the defense then moved for the submission of the case for decision. Soon enough, the RTC issued its judgment convicting the appellant as charged by relying solely on the latter's plea of guilt.

On appeal, the Court of Appeals (*CA*) reversed. The CA found that the RTC actually failed to perform its duty, under Section 3 of Rule 116 of the Rules of Court, to conduct a *searching inquiry* into the voluntariness of the appellant's plea of guilt and his full comprehension of the consequences thereof. For this reason, the appellate court considered appellant's plea of guilty to a capital offense as improvident and, hence, invalid. As the appellant's conviction was based solely on an improvident plea of guilt, the CA set aside such conviction and—following settled precedents—forthwith ordered the remand of the case for further proceedings.

Unsatisfied, appellant lodged the present appeal where he asked for a complete acquittal.

The *ponencia* granted the appeal. As said, I concur.

Jurisprudence up until now has been consistent in how courts ought to deal with convictions for capital offenses that are based *solely* on improvident pleas of guilt.[1] When a conviction for a capital offense is appealed and is there found to be based exclusively on an improvident plea of guilt, case law typically compels the appellate court to set aside the conviction of the accused and *remand the entire case back to the trial court for re-arraignment and the conduct of further proceedings*.[2]

While I concede that a conviction for a capital offense when based solely on an improvident plea of guilt must always be set aside, I believe that a remand of the criminal case should not be ordered *ipso facto* as a matter of course. In tune to what the *ponencia* advances, I venture that an exception to the remand directive should be made in instances where the prosecution was previously given the opportunity to present evidence to prove the guilt of the accused but failed to do so for no justifiable reason. I submit that, in such instances, it actually becomes the duty of the appellate court to render a judgment of acquittal in favor of the accused.

Such exception, while novel, is grounded on existing rules and sound reason.

It should be stressed that under our current rules of procedure, a guilty plea—*whether improvident or not*—can never on its own justify a conviction for a capital offense. This is the unequivocal import of Section 3 of Rule 116 of the 2000 Revised Rules of Criminal Procedure:

> **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.

In *People v. Oden*,[3] we held that the above provision mandated trial courts to fulfill three (3) *distinct* duties whenever an accused pleads guilty to a capital offense, to wit:

> (1) It must conduct a searching inquiry into the voluntariness and full comprehension of the consequences of the plea of guilt,
>
> (2) **It must require the prosecution to still prove the guilt of the accused and the precise degree of his culpability**, and

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1 *See* page 24 of the *ponencia*.
2 *Id.*
3 471 Phil. 638 (2004).

(3) It must inquire whether or not the accused wishes to present evidence in his behalf and allow him to do so if he desires.[4]

The second duty of the trial court under Section 3 of Rule 116 confirms a subsisting obligation on the part of the prosecution to present evidence and prove the guilt of the accused charged of a capital offense—notwithstanding the latter's guilty plea. Indeed, by the provision, such *onus* of the prosecution remains *even if* the trial court had already fulfilled its first duty, and *even if* the plea of guilty by the accused was determined to have been voluntarily and intelligently taken by the latter.

Hence, in cases where the accused enters a plea of guilty to a capital offense, the issue of whether such plea was improvidently taken or not will not actually determine the ultimate fate of the accused. As can be seen, regardless of the quality of the accused's plea of guilty, the prosecution is never discharged of its burden to adduce evidence and prove the guilt of the former. The implication of this procedure is crystal—in cases involving capital offenses, the accused's conviction or acquittal will still have to depend on whether the prosecution is able to discharge its burden of proving the guilt of the accused beyond reasonable doubt.[5] Accordingly, it is only when the prosecution is able to do so that the trial court would be justified in rendering a judgment of conviction. Otherwise, the accused—in spite of his plea of guilt—must be acquitted consistent with the constitutional presumption of innocence.

The case at bench, therefore, simply pertains to a situation where the prosecution was not able to discharge its burden of proving the guilt of an accused charged of a capital offense, *after* being required and given the opportunity by the trial court to do so.

It may be recalled that, after the appellant entered a plea of guilty to the crime of murder, the RTC—in fulfillment of its second duty under Section 3 of Rule 116—set four (4) hearing dates for the prosecution to present its evidence. However, the prosecution still failed to present any witness or evidence on any of the provided hearing dates. Obviously, the guilt of the appellant was never proven independently of his guilty plea.

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4 *Id.* at 648.

5 The procedure under Section 3 of Rule 116, thus, effectively removes the distinction between a plea of guilty and a plea of not guilty in the prosecution of capital offenses. As observed by Justice Alfredo Benjamin S. Caguioa in his Concurring Opinion:

Thus, **as it stands, there is effectively no difference between a plea of guilty or not guilty to a capital offense – that is, in both instances, the prosecution is required to present evidence to prove the guilt of the accused beyond reasonable doubt**. An accused who made an improvident plea of guilty may nonetheless be found guilty of the crime charged if, independent of the improvident plea, the evidence adduced by the prosecution establishes his guilt beyond reasonable doubt. To the contrary, **absent proof by the prosecution proving beyond reasonable doubt the guilt of the accused, such accused who pleads guilty to a capital offense, must be acquitted**. (Emphasis and underscoring in the original)

When the case against the appellant was thus submitted for decision, it is clear that the RTC should have rendered a judgment of acquittal in favor of the appellant. At that juncture, and by the Constitution and our rules, the appellant already deserves to be acquitted on the ground of the failure of the prosecution to prove his guilt by reasonable doubt. It is only unfortunate that the RTC erred and rendered a judgment of conviction on the sole basis of the appellant's guilty plea.

From that perspective, I believe that the relief that should be accorded to the appellant *on appeal* must also be his complete acquittal from the crime charged. This is consistent with the basic purpose of an appeal which is to rectify errors of judgment committed by a lower court.[6] Here, the rectification of the RTC's judgment could only be achieved when it is superseded by that which should have been issued by the trial court in the first place.

Rendering a judgment of acquittal in favor of the appellant on appeal, in other words, merely recognizes the verdict the latter was legally entitled from the start.

Conversely, requiring the remand of the case back to the RTC *under the present circumstances*, would be nothing short of inflicting a complete injustice to the appellant.

For one, a remand will undeservely cure all the prosecution's lapses and shortcomings during the trial stage. It will disregard the fact that the prosecution was already given, but had squandered for no justifiable reason, an opportunity to adduce evidence against and prove the guilt of the appellant. Allowing such an outcome—under the peculiar facts of this case—sets a dangerous precedent for the administration of criminal justice as it seems to encourage, if not reward, indolence in the prosecution of capital offenses.

Second, ordering a remand would undeniably work considerable prejudice to the appellant—particularly in his ability to raise a viable legal defense against the crime with which he was charged. It should be stressed that the appellant himself had not seen the need to present any evidence in his defense during the trial, most likely because the prosecution itself did not present any evidence to establish his guilt. Hence, conducting a re-trial at this stage would practically mean that the appellant has to, *for the first time*, collect evidence and build a case for his defense—a whole eleven years since he was indicted and almost a decade later after he was erroneously convicted by the RTC. Under such circumstances, a remand would not in any sense be fair to the appellant and would only prolong his unrest and anxiety. With these considerations, I therefore agree with the astute conclusion of Associate

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6 *Silverio v. Court of Appeals*, 225 Phil. 459, 471 (1986).

Justice Alfredo Benjamin S. Caguioa that remanding the present case back to the RTC may run the risk of violating the appellant's right to speedy trial.[7]

Lastly, the Court is not unmindful of the case of *People v. Abapo*[8] wherein we rationalized the necessity of the remand directive as such:

> x x x. 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.** (Emphasis supplied)

In essence, *Abapo* predicated the need to remand on what it perceived to be as the detrimental effect of an accused's plea of guilt on "*the manner by which the prosecution conduct[s] its presentation of the evidence.*"[9] It observed that a plea of guilty to a capital offense may lead "*the prosecution not* [to] *discharge its obligation as seriously as it would have had there been no plea of guilt.*"[10] Consequently, when a conviction for a capital offense was hinged solely on the accused's plea of guilt, but the plea was later determined to be improvident on appeal, the case has to be remanded back to the trial court because the prosecution, which relied on the accused's plea of guilt, could be said to have been effectively prevented from fully presenting its evidence.

Abapo's ruminations, however, seem to contradict the import of Section 3 of Rule 116 and, thus, should be revisited. As discussed earlier, the provision recognizes a subsisting duty on the part of the prosecution to present evidence and prove the guilt of an accused charged of a capital offense—notwithstanding the latter's guilty plea. The obvious significance of this rule is that, in cases involving capital offenses, the plea of guilt of the accused, regardless of whether it was improvidently taken or not, by itself will never discharge the prosecution of its burden to adduce evidence and prove the guilt of the accused.

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7 See Concurring Opinion of Justice Alfredo Benjamin S. Caguioa, pp. 18-19.
8 385 Phil. 1175, 1187 (2000).
9 *Id.*
10 *Id.*

Hence, contrary to *Abapo*, I find that the prosecution can never be justified into letting a plea of guilt to a capital offense adversely affect the manner by which it presents its evidence. Under our rules, the prosecution is expected, nay obligated, to present evidence and prove the guilt of an accused charged of capital offense with all seriousness, zeal and fervor, whatever the plea entered by the accused. The prosecution's reliance on a plea of guilty and the perceived detrimental effect thereof on how it presents its case, therefore, should never be considered as a valid ground for remand.

I then inevitably arrive at the same conclusion reached by the *ponencia*. The appellant, by all accounts, should be acquitted. The criminal case against him should no longer be remanded back to the trial court because the prosecution was already given the opportunity to prove the guilt of the appellant, only the latter did not. Insisting on a remand, under such circumstances, would not be consistent with the procedure prescribed under Section 3 of Rule 116 of the Rules of Court and will work considerable prejudice to the appellant. The appellant's situation is a valid exception to the remand directive.

IN VIEW WHEREOF, I cast my vote in favor of granting the instant appeal and of acquitting the appellant of the crime of murder.

DIOSDADO M. PERALTA
Chief Justice

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court