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order, as clarified in the June 8, 1978 resolution and as modified in the July 24, 1979 resolution, is hereby made permanent.

No pronouncement as to costs.

SO ORDERED.

Makasiar, C.J., Aquino, Concepcion Jr., Abad Santos, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., De la Fuente, and *Cuevas, JJ.*, concur.

Teehankee, J., reserves his vote.

EN BANC

[G.R. No. 69317. September 11, 1985]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **DANILO BADILLA** *y* **ONES** *ALIAS* **DODONG,** *accused-appellant.*

SYLLABUS

1. REMEDIAL LAW; CRIMINAL PROCEDURE; ARRAIGNMENT; IT IS THE COURT WHO IS DUTY BOUND TO EXPLAIN TO THE ACCUSED WHO PLEADS GUILTY OF ARRAIGNMENT TO A CHARGE WHICH CARRIES THE PENALTY OF CAPITAL PUNISHMENT, THE NATUE OF SAID ACCUSATION AND THE EFFECT OF THE ATTENDANT CIRCUMSTANCES ALLEGED IN THE INFORMATION, AS WELL TO TAKE THE TESTIMONY OF WITNESSES REGARDING SAID MATTERS.— The contentions of counsel for the accused-appellant are well taken. Thus, it is that a Manifestation in lieu of appellee's Brief was filed by the People-Appellee and therein confirming the fact that no transcript of stenographic notes of the arraignment proceedings appears in the record. In this regard, We agree with the view of the Office of the Solicitor General,

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representing the People, that it is the court who is duty bound to explain to the accused who pleads guilty on arraignment to a charge which carries the penalty of capital punishment, the nature of said accusation and the effect of the attendant circumstances alleged in the Information, as well as to take the testimony of witnesses regarding said matters.

2. ID.; ID.; ID.; ID.; RATIONALE.— Indeed, it is worth repeating that these tasks must be carried out faithfully by the trial court not only to forestall an improvident plea of guilty but also to ascertain the precise degree of appellant's culpability.

D E C I S I O N

ALAMPAY, *J.*:

In the decision dated October 31, 1984 rendered in Crim. Case No. 3902 of the Regional Trial Court of Bohol, Branch III, City of Tagbilaran, the herein accused, Danilo Badilla *y* Ones, *alias* Dodong, by reason of the voluntary plea of guilty entered by him at his arraignment, was found guilty beyond reasonable doubt of the crime of Robbery with Homicide and sentenced to suffer the penalty of death and to indemnify the heirs of the offended party, Nestora Horoboro in the sum of ₱12,000.00 and to pay the costs.

The Information filed against the herein accused-appellant reads as follows:

"That on or about the 18th day of July, 1984, in the City of Tagbilaran, Philippines and within the jurisdiction of this Honorable Court, the above named accused, with the intent to gain and by the use of force and violence, did then and there willfully, unlawfully and feloniously assault, attack, and beat Nestora Horoboro with a wooden pole, and with the use of a stainless knife, a deadly weapon, stab the latter on the vital parts of her body thereby inflicting upon her various mortal wounds which directly caused the death of said Nestora Horoboro, and thereafter, the said accused did then and there willfully, unlawfully, feloniously and forcibly take and carry away one (1) rota-air electric fan and one (1) Sanyo Dynamic radio casette recorder, to the damage and prejudice of the heirs of the said Nestora Horoboro in an amount to be proved during the trial.

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"Acts committed contrary to the provisions of Article 294 of the Revised Penal Code with the aggravating circumstances of treachery, obvious ungratefulness and dwelling.

"City of Tagbilaran, Philippines, August 13, 1984."

From the decision which is the subject of review in this case, it is disclosed that the accused was asked by the trial court "if his lawyer has explained to him the consequences of his plea of guilty and whether he understood fully well the explanations of his lawyer taking into account that the crime charged is a capital offense and the answer of the accused was in the affirmative." Because of the acknowledgment made by the accused that his lawyer had explained to him the consequences of the plea of guilty entered by him, the court considered the voluntary plea of guilty of the accused as a mitigating circumstance but took into account the three (3) aggravating circumstances of treachery, obvious ungratefulness and dwelling alleged in the Information as attendant to the commission of the offense charged when it rendered its judgment. The dispositive portion of the trial court's decision reads as follows:

"WHEREFORE, in view of the foregoing consideration, judgment is hereby rendered finding accused DANILO BADILLA *y* ONES *alias* Dodong *guilty* beyond reasonable doubt of the crime of ROBBERY with HOMICIDE allegedly committed in the manner and under the circumstances, described in the aforequoted Information and as penalized under the provisions of Article 294 of the Revised Penal Code and taking into account the three (3) aggravating circumstances alleged in the aforequoted Information which is offset by one (1) mitigating circumstance, the Court hereby sentences accused DANILO BADILLA *y* ONES @ Dodong the penalty of *DEATH* and to indemnify the heirs of Nestora Horoboro the sum of TWELVE THOUSAND (₱12,000.00) PESOS, Philippine Currency, without subsidiary imprisonment in case of insolvency therefor pursuant to and in accordance with the provisions of Article 39 of the Revised Penal Code as amended by Republic Act No. 5464 and to pay the costs of the proceedings.

"x x x x x x x x x

"SO ORDERED."

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Thereafter, this case was elevated to this Court for automatic review in view of the death penalty.

In the brief filed by the counsel *de oficio* of the accused, Atty. Camilo Quiazon, the decision of the court below is assailed on the ground that the court erred in not ascertaining whether the accused fully understood the nature and meaning of the charge against him and the consequences of his plea of guilty; and furthermore, in not receiving evidence to substantiate the attendance of the alleged aggravating circumstances and in not keeping a record of the proceedings during the arraignment.

The contentions of counsel for the accused-appellant are well taken. Thus, it is that a Manifestation in lieu of appellee's Brief was filed by the People-Appellee and therein confirming the fact that no transcript of stenographic notes of the arraignment proceedings appears in the record. In this regard, We agree with the view of the Office of the Solicitor General, representing the People, that it is the court who is duty bound to explain to the accused who pleads guilty on arraignment to a charge which carries the penalty of capital punishment, the nature of said accusation and the effect of the attendant circumstances alleged in the Information, as well as to take the testimony of witnesses regarding said matters (*People vs. Hondolero*, 72 SCRA 422; *People vs. Rodolfo Gonzales*, 101 SCRA 246). Indeed, it is worth repeating that these tasks must be carried out faithfully by the trial court not only to forestall an improvident plea of guilty but also to ascertain the precise degree of appellant's culpability (*People vs. del Rosario*, 68 SCRA 242).

Said requisites which are set forth and prescribed in abundant jurisprudence have not been complied with in the instant case. The court below did not even bother to ascertain from the accused just what were the explanations given to him by his lawyer regarding the effects of the plea which the accused would make and which he eventually entered at the time of his arraignment. What need to be here again emphasized is that, it is not enough to simply question the accused if he had been advised by his counsel but more than this — the trial court should inquire

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what exactly was the advice given to the accused and more importantly, what the latter actually understood would be the result of his plea of guilty to the charge preferred against him and the consequences thereof.

In the case of *People vs. Serna, et al.*, L-33294, July 25, 1984, 130 SCRA 550, citing *People vs. Pablo Gonzales*, 92 SCRA 527, it was therein pointed out that: —

> "Where a plea of guilty is entered by the defendant, in cases where the capital penalty may be imposed, the court should make certain that defendant fully understands the nature of the charge preferred against him and the character of the punishment provided by law before it is imposed. The trial court should therefore call witnesses for the purposes of establishing the guilt and degree of culpability of the defendant, not only to satisfy the trial judge, 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."

WHEREFORE, the judgment under automatic review is hereby SET ASIDE and the case REMANDED to the trial court for further proceedings.

SO ORDERED.

Makasiar, C.J., Teehankee, Concepcion Jr., Abad Santos, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., De la Fuente, Cuevas, and *Patajo, JJ.*, concur.

Aquino, J., on leave.