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[G.R. No. L-34674. August 6, 1979]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **PABLO GONZALES,** *defendant-appellant.*

SYLLABUS

1. **REMEDIAL LAW; CRIMINAL PROCEDURE; PLEAS; PLEA OF GUILTY; IN EVERY CASE UNDER THE PLEA OF GUILTY, WHERE THE PENALTY MAY BE DEATH, THE TRIAL COURT SHOULD CALL WITNESSES FOR THE PURPOSE OF ESTABLISHING THE GUILT AND DEGREE OF CULPABILITY OF THE DEFENDANT.**— The norm that should be followed where a plea of guilty is entered by the defendant, especially in cases where the capital penalty may be imposed, is that the court should be sure that defendant fully understands the nature of the charges preferred against him and the character of the punishment provided by law before it is imposed. For this reason, the Court has deemed it advisable that in every case under the plea of guilty, where the penalty may be death, the trial court should call witnesses for the purpose of establishing the guilt and degree of culpability of the defendant, and "not only to satisfy the trial judge but to aid the Supreme Court in determining whether accused really and truly understood and comprehended the meaning, full significance and consequences of his plea."

2. **ID.; ID.; ID.; ID.; EFFECTS THEREOF.**— At any rate, when appellant pleaded guilty to the charge, he is deemed to have admitted all the material facts alleged in the information. By his plea, he admitted not only the commission of the crime but also the circumstances surrounding its commission, including the attendant circumstances qualifying or aggravating the crime.

3. **CRIMINAL LAW; AGGRAVATING CIRCUMSTANCES; TREACHERY; WHEN PRESENT.**— As correctly observed by the Solicitor General, treachery could be inferred from the following facts: (1) that as soon as the door of the neuropsycho ward was opened, the appellant together with his two companions suddenly entered the door and took their knives from their waists and followed Moises Malines who was walking

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inside the wards and after a few seconds, a commotion took place inside; (2) that a few moments thereafter, the appellant together with his two companions went out of the ward still holding their knives now dripping with blood; (3) that, thereafter, the attendants found Moises Malines at the passage of their "tarima" already dead; (4) that the necropsy report issued by the Medico Legal of the NBI shows that the deceased sustained 22 stab wounds, two of which were fatal; and (5) that these wounds could have been inflicted simultaneously and successively by more than one person and his multiple stab wounds at his right chest show that his assailant was behind him and slightly to the right.

4. ID.; ID.; EVIDENT PREMEDITATION; WHEN PRESENT.— Appellant himself admitted in his extra-judicial confession that he and his two companions planned the killing of the deceased after taking their lunch the day before the incident, in order to avenge the death of their gangmate. The appellant, therefore, had ample opportunity to desist from executing the crime but he persisted and perpetrated the killing of the deceased.

D E C I S I O N

***PER CURIAM*:**

In Criminal Case No. CCC-VII-883-Rizal of the Circuit Criminal Court of Rizal, Pablo Gonzales was charged with the crime of Murder in an information filed against him which reads as follows:

"That on or about April 9, 1971, in the New Bilibid Prison, Muntinglupa, Rizal, Philippines and within the jurisdiction of this Honorable Court, the said accused while then confined at the said institution, armed with an improvised deadly weapon, did then and there wilfully, unlawfully and feloniously assault and wound therewith one MOISES MALINES, No. 9412-D, a detention prisoner at the New Bilibid Prison, in the different parts of the body, inflicting upon him multiple stab wounds, while then unarmed and unable to defend himself from the attack launched by the accused, as a result of which the said Moises Malines died instantly.

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"That the offense when committed by the accused was attended by the qualifying circumstances of treachery and the generic circumstance of evident premeditation."

When arraigned on August 5, 1971, the accused, assisted by counsel *de oficio,* pleaded not guilty. Accordingly, the court set the case for trial on August 10, 1971.[1]

At the scheduled trial, however, counsel for the accused manifested to the court that his client would like to withdraw his former plea and substitute it with the plea of guilty. Whereupon, the court ordered the accused to be re-arraigned, after which the accused pleaded guilty to the charge.[2] Hereunder is what transpired in the court below:

"ATTY. GALVAN

> As counsel *de oficio*, your Honor, The accused has intimated to me that if the Court will permit him to withdraw his former plea of not guilty and substitute the same with a plea of guilty, the accused is most willing to enter a plea of guilty.

"COURT

> Re-arraign the accused.
>
> When the accused, Pablo Gonzales was re-arraigned today, pursuant to Section 1, Rule 116 of the New Rules of Court, in relation to Rule 118 thereto, duly assisted by counsel *de oficio*, Atty. Jose O. Galvan, he pleaded GUILTY.

"Q Do you confirm the statement of your lawyer that you are withdrawing your former plea of not guilty and you are substituting the same with a plea of guilty?

AT THIS JUNCTURE, ACCUSED WAS PLACED ON THE WITNESS STAND, to answer the questions of the Court.

"A Yes, your Honor.

"Q Are you aware that by pleading guilty you will be penalized under our existing laws?

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[1] p. 29, Original Record.

[2] p. 27, Original Record; also pp. 2-3, t.s.n.

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"A Yes, your Honor.

"Q And in spite of that knowledge you still insist on pleading guilty?

"A Yes, sir.

"Q Are you aware of the fact that the Court will only punish you with the penalty of death?

"A Yes, your Honor.

"Q Notwithstanding the fact that you might be punished with death, you still insist on pleading guilty?

"A Yes, your Honor.

"ATTY. GALVAN

> Your Honor, I have informed the accused about the consequences of his plea of guilty in Ilocano, which he understands and after informing him of the consequence of his plea, he still insists that he is entering a plea of guilty and that his entering into a plea of guilty is voluntary on his part.

"COURT

> I want you to present evidence under the present system, fiscal, notwithstanding the fact that the accused pleads guilty; the doctrine laid down by the Supreme Court in the case of *People versus Epifanio Flores*."

In compliance with said directive, the prosecution presented, as its first witness, Cecilio de Leon, a detention prisoner at the penal institution, who declared that at about 3:00 o'clock in the afternoon of April 9, 1971, he was at the mezzanine floor of NP (neuro-psycho) ward where he was then assigned to work as an attendant. From his vantage point, he saw three prisoners loitering outside the door of the ward, making signs or talking in a sign language with the "mayor" of the ward, one Felipe Llarena, who was standing near the window of the mezzanine floor. He also saw Moises Malines, a prisoner also assigned to work as an attendant in the ward, standing near the door of the ward. At this instant, he heard "mayor" Felipe Llanera shout an order to those below to open the door, to allow the

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"rancheros" (kitchen boys) to leave the ward. When the door was opened, the three prisoners outside, one of whom was the accused Pablo Gonzales, entered the ward, with improvised bladed weapons in hand. He saw Moises Malines go towards the living quarters of the attendants of the ward. Soon thereafter, he heard a commotion ("*kalabugan*") inside and, just as swiftly as they came, the intruders left the ward with bloody weapons in hand. After the accused and his companions had gone, the "mayor" of the ward went downstairs and closed the door of the ward.

The next witness was Brigildo Amon, another prisoner in the penal institution and also assigned to work as an attendant in the "NP" ward, who testified that he was about three (3) meters from the door of the ward and saw the accused and his companions loitering outside the ward and that he ran upstairs when the accused and his two companions entered the ward, brandishing their weapons. Like Cecilio de Leon, he did not also see the accused and his companions attack the deceased Moises Malines. He saw Malines lying down at the passage of their "*tarima*" after the accused and his companions had left the ward.

Dr. Ernesto Brion, the NBI Assistant Director for Medicine, was also presented to identify the necropsy report made on the cadaver of Moises Malines.[3] He also stated that the deceased sustained 22 stab wounds, all of which contributed to cause the death of Moises Malines.

The last witness was Jesus Tumagan, an employee of the Bureau of Prisons who investigated the stabbing incident in question and identified the weapon used in the killing of Moises Malines,[4] as well as the extra-judicial confession of the accused Pablo Gonzales,[5] wherein the accused stated that he and his companions stabbed Moises Malines *alias* "Armalite" in order

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[3] Exhibit "C".

[4] Exhibit "A".

[5] Exhibit "D".

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to avenge the death of a member of their prison gang who was slain the day before.

At the close of the proceedings, counsel *de oficio* objected to the reception of the extra-judicial confession of the accused on the ground that the same was taken against the will of the accused and announced that he was reserving their right to present evidence. He also asked the court that "he be given a chance to file a motion to dismiss" to which the court acceded.[6] Counsel, however, did not file such motion; nor did he present evidence.

On September 9, 1971, the court rendered judgment finding the accused guilty of the crime of Murder, and sentencing him *to suffer the penalty of death; to indemnify the heirs of the* offended party, Moises Malines the amount of ₱12,000.00; to pay the amount of ₱10,000.00 as moral damages, and ₱10,000.00 as exemplary damages, and to pay the costs.

Able counsel appointed for the accused now contends that the acceptance of the substituted plea of guilty was precipitate as it did not meet jurisprudential requirements to assure that the accused was aware of the consequences of his plea of guilty and that he fully understood the significance and meaning thereof. Wherefore, he prays that the case be returned to the court below for proper proceedings.

The norm that should be followed where a plea of guilty is entered by the defendant, especially in cases where the capital penalty may be imposed, is that the court should be sure that defendant fully understands the nature of the charges preferred against him and the character of the punishment provided by law before it is imposed.[7] For this reason, the Court has deemed it advisable that in every case under the plea of guilty, where the penalty may be death, the trial court should call witnesses for the purpose of establishing the guilt and degree of culpability

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[6] p. 31, t.s.n.

[7] *People vs. Flores*, L-32692, July 30, 1971, 40 SCRA 230.

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of the defendant,[8] and "not only to satisfy the trial judge but to aid the Supreme Court in determining whether accused really and truly understood and comprehended the meaning, full significance and consequences of his plea."[9]

In the instant case, the court, before accepting the modified plea, satisfied itself that the accused fully understood the meaning of his plea and the import of an inevitable conviction. It also required the taking of testimony as to the circumstances under which the crime was committed, thus complying with the strictures set forth before imposing upon the accused the penalty of death. There is, thus, no merit in the claim that the acceptance of the substituted plea of guilty was precipitate or inordinate.

Counsel also contends that the evidence presented by the prosecution does not warrant, nor support, the finding that the commission of the crime was attended by the qualifying circumstance of treachery and the aggravating circumstance of evident premeditation, since the prosecution failed to present any eyewitness who directly saw the killing of Moises Malines.

The contention is untenable. As correctly observed by the Solicitor General, treachery could be inferred from the following facts: (1) that as soon as the door of the neuropsycho ward was opened, the appellant together with his two companions suddenly entered the door and took their knives from their waists and followed Moises Malines who was walking inside the wards and after a few seconds, a commotion took place inside; (2) that a few moments thereafter, the appellant together with his two companions went out of the ward still holding their knives now dripping with blood; (3) that, thereafter, the attendants found Moises Malines at the passage of their "tarima" already dead; (4) that the necropsy report issued by the Medico Legal

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[8] *US vs. Talbanos*, 6 Phil. 541; *People vs. Solacito*, 29 SCRA 61; *People vs. Simeon*, 47 SCRA 129; *People vs. Daeng*, 49 SCRA 221; *People vs. Ricalde*, 49 SCRA 228; *People vs. Martinez*, 50 SCRA 509; *People vs. Busa*, 51 SCRA 317; *People vs. Undong*, 66 SCRA 386.

[9] *People vs. Estabia*, 40 SCRA 9; *People vs. Lacson*, 55 SCRA 589.

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of the NBI shows that the deceased sustained 22 stab wounds, two of which were fatal; and (5) that these wounds could have been inflicted simultaneously and successively by more than one person and his multiple stab wounds at his right chest show that his assailant was behind him and slightly to the right.[10]

Evident premeditation was likewise present in the commission of the crime. Appellant himself admitted in his extra-judicial confession that he and his two companions planned the killing of the deceased after taking their lunch the day before the incident, in order to avenge the death of their gangmate.[11] The appellant, therefore, had ample opportunity to desist from executing the crime but he persisted and perpetrated the killing of the deceased.

At any rate, when appellant pleaded guilty to the charge, he is deemed to have admitted all the material facts alleged in the information. By his plea, he admitted not only the commission of the crime but also the circumstances surrounding its commission, including the attendant circumstances qualifying or aggravating the crime.[12]

WHEREFORE, the judgment of the trial court, being in accordance with the law and the evidence, is AFFIRMED *in toto.*

SO ORDERED.

Teehankee, Barredo, Makasiar, Antonio, Aquino, Concepcion Jr., Fernandez, Guerrero, De Castro, and *Melencio-Herrera, JJ.,* concur.

Fernando, C.J. and *Abad Santos, J.,* took no part.

Santos, J., on leave.

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[10] pp. 11-12, Appellee's Brief.

[11] Exhibit "E", Record.

[12] *People vs. Perete,* 1 SCRA 1290.