

EN BANC

[G. R. No. 150033, November 12, 2004]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DANILO ESPIDOL Y VILLANUEVA (DECEASED), SAGRADO
DALACAT Y SANTOS, ALFREDO TOMAS, Y LIMOS (AT-LARGE),
AND ARMANDO ANIASCO, ACCUSED,**

SAGRADO DALACAT Y SANTOS, ACCUSED-APPELLANT.

DECISION

CHICO-NAZARIO, J.:

Courts must be careful to avoid improvident pleas of guilt and, where grave crimes are involved, the proper course is to take down evidence to determine guilt and avoid doubts.^[1]

In a rather atypical case, both the defense and the State, in the case at bar, are enthused by a common clamor – the remand of this case to the court a quo on the argument that the accused now stands on death row because of a plea of guilty improvidently made.

For automatic review is the decision^[2] dated 22 August 2001 of the Regional Trial Court (RTC) of Vigan City, Ilocos Sur, Branch 20, in Criminal Case No. 4333-V, finding appellant Sagrado Dalacat guilty beyond reasonable doubt of the complex crime of robbery in band with homicide and sentencing him to death. Appellant was ordered to pay the heirs of the victim, Hipolito Bagay, the sum of P50,000 as civil indemnity, P1,200,000 as actual damages, and the costs.

The information charging appellant Sagrado Dalacat and his co-accused, Danilo Espidol, Alfredo Tomas, Virgilio Corpuz, and Armando Aniasco with Robbery in Band with Homicide reads:

That on or about the 14th day of October, 1998, in the municipality of Vigan, province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, all armed with illegally possessed firearms (unrecovered) with intent to gain, in band, did then and there stage a hold-up at the business establishment of the family of Hipolito Bagay, by wilfully, unlawfully and feloniously and with violence and intimidation, pointing their firearms at Hipolito Bagay, Erlinda Sabado Bagay and Johanna Go, and shot Hipolito Bagay thereby inflicting mortal gunshot wounds on him which caused his death a few days thereafter, and then wilfully, unlawfully and feloniously and with intent to gain, the above-named malefactors took, stole and carried away the amount of ONE MILLION TWO HUNDRED THOUSAND PESOS

(P1,200,000.00), Philippine Currency, belonging to Hipolito Bagay on board a get-away vehicle, a Mitsubishi L-300 van bearing plate no. CME-337, to the damage and prejudice of the heirs of the late Hipolito Bagay.

[3]

On 06 April 1999, the case against Virgilio Corpuz was dismissed for lack of sufficient evidence^[4] and accordingly, his name was stricken out from the information.^[5] Corpuz later became state witness. In the *interregnum*, accused Danilo Espidol died in jail while Alfredo Limos fled from prison on 08 March 1999 and has remained at-large.^[6] As for Armando Aniasco, the trial court issued an order for his arrest on 17 July 2001 upon learning that he was detained in the Cabanatuan City Jail in Nueva Ecija for another offense.^[7]

On 08 March 1999, appellant was arraigned and with the assistance of his counsel, Atty. Hermilo Barrios, he pleaded not guilty.^[8]

At the ensuing trial, the prosecution presented its two witnesses, namely: Virgilio Espiritu Corpuz and Johanna Go.

On direct examination, 29-year old VIRGILIO ESPIRITU CORPUZ a.k.a. "BILLY" testified that he was employed as a driver of a car rental shop owned by one Genaro de la Cruz of San Nicolas, Tarlac City. In his narrative, on 13 October 1998, he was assigned to chauffeur for four (4) men, including herein appellant, to Vigan, Ilocos Sur, for two days. At 2:00 p.m. that day, Corpuz and his passengers headed off to Vigan aboard an L-300 van with Plate No. CME 337.^[9]

En route to Vigan, at about 10:00 p.m., Aniasco ordered Corpuz to park the van in Santa Maria, Ilocos Sur, at the house of a man whom the group addressed as "Barangay Captain" (or Captain), allegedly to collect the sum of P50,000, which the latter owed to Aniasco. Aniasco had a brief conversation with said *Barangay* Captain after which they proceeded to a beach resort where they spent the night.^[10]

The following day, Aniasco directed Corpuz towards a house near the basketball court to fetch a certain "Gadong" who went with them to the Captain's house, purportedly to collect the amount of P50,000 from the latter. Gadong and Aniasco entered the Captain's house, but shortly, Aniasco returned to the van to wait. According to him, the Captain, who was then cash-strapped, will mortgage his motorcycle to come up with the cash. Later, a "mestizo-looking" man emerged from the Captain's house, driving a motorcycle and left. When the mestizo returned, Aniasco spoke with him briefly then the group headed off to Vigan, Ilocos Sur.^[11]

In Vigan, Corpuz was ordered to park near the El Juliana Hotel near a bridge, under the pretext that Aniasco's group will go on sight-seeing of the Vigan Church, famous for its tower. But Corpuz recalled that the group did not actually take a look at the said tower as they left the van briefly.^[12] Upon their return to the van, Corpuz was instructed to proceed to Puro, Magsingal, Ilocos Sur, where the group haggled for motorcycles totalling P95,000. They were, however, unable to purchase any vehicle because according to Aniasco's group, the cash they had was in dollars, which they must first exchange to pesos.^[13] For this purpose, they proceeded to the commercial establishment owned by Hipolito Bagay and his family, who have a

money exchange store in the same building.^[14] Corpuz was directed to park the vehicle in front of the building and to keep the engine on as they will just exchange their dollars in a jiffy.^[15]

The group then alighted from the van and entered the store of the Bagays. Shortly, Corpuz heard something broke. This noise was followed by a woman's scream. The noise, according to Corpuz, did not emanate from the place where the group entered so he looked around the place for anything odd, but found none, so he relaxed. The four men returned momentarily and boarded the van in haste. Corpuz sensed something was amiss as the men were fidgeting and one of them even let slip three times that they made a mistake (*Kagkamalan kami putang ina*).^[16]

Corpuz noticed that Aniasco was holding a green folder, which he wrapped in his jacket. Aniasco gave directions to Corpuz on which way to go and upon reaching Bantay, Ilocos Sur, he alighted, carrying with him the green folder, bid the rest of them goodbye, and uttered, "We will see each other at the Captain's or go straight [ahead]."^[17]

Alfredo Limos then transferred to the front seat. He patted Corpuz by the shoulder and asked him to remain calm. He explained that they were members of sparrow unit and were just following orders from their Chief. After hearing those words, Corpuz begged the group to spare him, as he was a family man with four children to support.^[18]

Upon reaching a checkpoint in Santa, Ilocos Sur, on the way to Manila, the group asked Corpuz to turn right and to proceed slowly because Dalacat and Espidol will get off. The duo left P500 with Limos for gasoline. After Dalacat and Espidol left, Limos and Corpuz went on with their trip for Manila with Limos warning Corpuz that if they pass by a checkpoint, the latter should remain tight-lipped about the incident.

As they were negotiating a turn in the national high-way, Corpuz eyed some policemen blocking the road, so he stopped the van. When he saw an opportunity to alight from the van, he rushed to the law enforcers, raised his hands and blurted out, "I'm only the driver, sir!"^[19] Corpuz then pointed to the van and tipped the police that Alfredo Limos was inside it. The apprehending officers later brought Corpuz to the municipal building where he was incarcerated until his release on 06 April 1999.^[20]

24-year old Johanna Go, next witness for the prosecution, was the fiancée of Edward Bagay, brother of the victim Hipolito Bagay.

Go recalled, on direct examination, that on 14 October 1998, she was cross-stitching at the porch of the commercial establishment owned by the family of Hipolito Bagay located at the corner of Plaridel and Mabini Streets in Vigan, Ilocos Sur. Hipolito Bagay was then manning the money exchange office inside said building. At about 11:30 a.m., she spotted two men, whom she later identified as Limos and Espidol, alight from the van. Out of the blue, Limos pointed a revolver at Johanna from a distance of one meter and pushed her towards Erlinda Bagay, wife of the victim Hipolito Bagay. Limos then announced a heist.

As Limos was pushing Johanna and Erlinda towards the inner small door leading to the adjoining money exchange office, Johanna heard a sudden gunburst. She knelt down near a table and while in this position, saw two men coming out of the money exchange office. One of them, whom she later identified as Espidol, was holding a green bag and the other, whom she identified as appellant Dalacat, opened the table drawer next to her and took the money in it. The men hurriedly left the building with their loot, passing through the back door.

After the ruckus, Johanna caught sight of Hipolito Bagay, bathed in blood. Johanna called the hotel where Edward, her fiancé and Hipolito's brother, was in order to apprise him of the mayhem. When Edward Bagay arrived, Hipolito Bagay was rushed to the Saint James Hospital, Vigan, Ilocos Sur. A few days later, Hipolito expired.^[21]

On 13 June 2001, shortly after the prosecution's third witness was sworn in, appellant changed his tune. Atty. Fatima Vitamog, appellant's new counsel, manifested in open court about appellant's desire to change his plea to guilty. Appellant was re-arraigned, with the information read to him in the local dialect. To the charge of Robbery with Homicide in a Band, he pleaded guilty.^[22]

The trial court set another hearing on 26 July 2001 to assess appellant's comprehension of his plea. At said hearing, appellant was represented by Atty. Ligaya Ascaño vice Atty. Vitamog. Thereat, the trial court inquired from appellant if his new counsel clearly explained to him the legal effects and consequences of his plea of guilty. He answered in the affirmative. Without much ado, the trial court deemed the case submitted for decision and on 22 August 2001 rendered the assailed decision, the fallo of which read-

Considering that no mitigating circumstance could be considered in favour of the accused in view of the fact that the prosecution has already started to present two (2) of its witnesses against the accused, and considering the voluntariness of the plea of guilty of the accused, the Court accepts the plea of guilty and hereby finds accused SAGRADO DALACAT guilty beyond reasonable doubt of the complex crime of Robbery in Band with Homicide, punished by Article 294 of the Revised Penal Code in relation to Article 296 of the same code as charged in the information, with no extenuating circumstance hereby sentences him to suffer the penalty of DEATH, and to indemnify the heirs of the deceased, HIPOLITO BAGAY the sum of P50,000.00 and the further amount of ONE MILLION TWO HUNDRED THOUSAND PESOS (P1,200,000.00), with all the accessory penalties provided for by law and no subsidiary imprisonment in case of insolvency and to pay the costs.

Let the entire records of the case together with the documentary evidence and transcribed stenographic notes be forwarded to the Honorable SUPREME COURT for automatic review.^[23]

In light of the imposition of the death penalty upon appellant, the records of the case were elevated to this Court for automatic review.

Appellant assigns the following errors for the Court's consideration:

I.

THE TRIAL COURT SERIOUSLY ERRED IN FAILING TO CONSIDER APPELLANT'S PLEA OF GUILTY AS IMPROVIDENT;

II.

THE TRIAL COURT GRAVELY ERRED IN FAILING TO CONTINUE WITH THE TRIAL AND RECEPTION OF EVIDENCE AFTER ACCUSED SAGRADO DALACAT CHANGED HIS PLEA TO A PLEA OF GUILTY;

III.

SUPPOSING, WITHOUT ADMITTING, THAT APPELLANT'S PLEA OF GUILTY WAS VALIDLY MADE, THE TRIAL COURT SERIOUSLY ERRED IN HOLDING THAT THE OFFENSE OF ROBBERY WAS COMMITTED BY A BAND;

IV.

THE TRIAL COURT SERIOUSLY ERRED IN CONSIDERING "BAND" AND "USE OF UNLICENSED FIREARMS" AS a QUALIFYING CIRCUMSTANCES IN THE COMMISSION OF THE OFFENSE OF ROBBERY WITH HOMICIDE TO WARRANT THE IMPOSITION OF THE MAXIMUM PENALTY OF DEATH.^[24]

At bottom is the issue of whether or not the plea of guilty by appellant was validly made to convict him of a capital offense. Ancillary to this are the issues of: (1) whether the prosecution evidence was sufficient to merit conviction of appellant, and (2) whether the penalty of death was properly imposed.

On the first issue, appellant, in his Brief, waxes lyrical on the lower court's imposition of the penalty of death upon him on the basis of his plea of guilty *sans* his full comprehension of its sense and substance. He bemoans the trial court's failure to propound sufficient questions to ascertain if he had indeed intelligently understood such plea. He remonstrates that the trial court did not proceed with the reception of his evidence, which he says was in flagrant violation of law and jurisprudence concerning a plea of guilt to a capital offense.^[25]

The Office of the Solicitor General (OSG), in lieu of a brief, filed a manifestation,^[26] fusing with appellant in his prayer that the case be remanded to the court *a quo* for further proceedings.

Appellant's contention, as adopted by the OSG, is imbued with merit.

The crime of robbery with homicide is punishable by *reclusion perpetua* to death under Article 294(1) of the Revised Penal Code, which provides:

Article 294 – *Robbery with violence against or intimidations of persons – Penalties.* – Any person guilty of robbery with the use of violence against or any person shall suffer:

1. The penalty of *reclusion perpetua* to death, when by reason or on occasion of the robbery, the crime of homicide shall have been