

EN BANC

[G.R. No. 129058, March 29, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
PAULINO SEVILLEN Y VILLANUEVA ALIAS TAMAYO, ACCUSED-
APPELLANT.**

D E C I S I O N

BELLOSILLO, J.:

By pleading guilty to the rape and killing of a 9-year old girl a death sentence would seem inevitable. But a mere plea of guilt is not sufficient for conviction as the court must first assure itself that the accused fully understood the consequences of his plea. In the instant case, the trial court failed to conduct a searching inquiry into the voluntariness of his admission of guilt and that he fully comprehended the implications thereof. As the court *a quo* inadequately discharged its duty of conducting a searching inquiry, the plea of guilt to a capital offense therefore inevitably became null and void.^[1]

On 22 July 1995, at around 10:00 o'clock in the morning, Paulino Sevileno y Villanueva alias *Tamayo* went to Barangay Guadalupe, San Carlos City. He brought with him bread and ice candy for his 9-year old and 8-year old nieces, Virginia and Norma, both surnamed Baquia. He then invited Virginia to accompany him to Sitio Guindali-an "to see (a) beta show."^[2] To reach the place, Paulino and Virginia passed through the sugarcane fields.

At around 11:00 o'clock that same morning, Rogelio Baquia, father of Virginia and Norma, arrived. Not seeing Virginia in their house, Rogelio asked Norma where her sister was. After learning from her that Virginia had gone with accused Paulino to Sitio Guindali-an, Rogelio immediately set out to look for them.

Rogelio failed to find his daughter upon reaching Sitio Guindali-an; instead, he bumped into the accused. When asked about Virginia the accused denied knowing where she was. However, Rogelio noticed that the accused had nail scratches on his neck and a wound on his left cheek.

Rogelio continued his search. He was accompanied by Eugenio Tiongson, a relative of the accused. The next day they met the accused at the house of the former barangay captain of Sitio Guindali-an, Paeng Lopez. Eugenio asked Paulino where Virginia was. This time the accused replied that she was in a sugarcane field known as "*Campo 9*," still a part of Guadalupe, like Sitio Guindali-an. Accompanied by some police officers, Rogelio and Eugenio proceeded to "*Campo 9*." There they found Virginia covered with dried leaves, her dress raised to her armpits; the lower portion of her torso was naked; her legs were spread apart. She had wounds on various parts of her body. She was dead.^[3]

Dr. Arnel Laurence Q. Portuguez, City Health Officer of San Carlos City, autopsied the body of Virginia. His *postmortem* examination showed these findings: linear abrasion over hematoma, 3.0 x 2.0 cm., right superior anterior neck; linear abrasion over hematoma, 2.5 x 3.0 cm., left superior anterior neck; hematoma 9.0 x 4.0 cm., right inguinal area; hematoma 9.0 x 5.0 cm., left inguinal area; superficial hymenal laceration 0.5 cm., at 12 o'clock position, with clot formation at intitus; abrasion 5.5 x 4.0 cm., left superior gluteal area; abrasion 5.0 x 3.0 cm., right superior gluteal area; abrasion 6.0 x 2.0 cm., right inferior lateral gluteal area; vaginal smear showing absence of sperm cells except pus cells and epithelial cells. Cause of death: asphyxia secondary to strangulation.^[4] Based on his findings, Dr. Portuguez concluded that Virginia was raped and then strangled to death.

When news of the gruesome rape and killing spread around the community, the local residents immediately arrested the accused Paulino Sevileno and turned him over to the police authorities. Thereafter, on 25 July 1995, the accused was charged with rape with homicide for having carnal knowledge of Virginia Baquia, a minor, 9 years of age, by means of force, violence and intimidation and against her will, and after ravishing her, with intent to hide his identity and to prevent discovery thereof, with intent to kill, strangled her which directly caused her death.^[5]

The arraignment where the accused was represented by Atty. Vic Agravante of the Public Attorney's Office proceeded thus -

Court: Call the case x x x x

Interpreter: Appearances?.

Pros. Tabinas: Appearing for the government, ready for arraignment.

Atty. Agravante: Respectfully appearing for the accused, ready, you Honor.

Court: Arraign the accused.

Stenographer's Observation: Accused was arraigned in a Cebuano language duly known and understood by him, pleaded GUILTY.

COURT (to accused): Do you understand your plea of guilty?

Accused: Yes, sir.

Q. Do you know that your plea of guilty could bring death penalty?

A. Yes, sir.

Court (to Pros. Tabinas): You still have to present your evidence.

Pros. Tabinas: Yes, your honor.^[6]

The hearing for the presentation of the evidence for the prosecution was scheduled on 31 August 1995. It was however reset several times. On 10 October 1995 the accused manifested that he had no counsel. Thus, the trial court ordered the Public

Attorney's Office to provide a counsel *de officio* for him. The next hearing was set on 21 November 1995.^[7]

On 28 October 1995, taking advantage of typhoon "*Pepang*" that struck the island of Negros, the accused escaped from detention, of which the Presiding judge was accordingly informed.

The records show that Atty. Vic Agravante assisted the accused during the arraignment only. In the succeeding hearings, Atty. Danilo Pabalinas, another lawyer of PAO, represented the accused. But after the escape Atty. Pabalinas sought permission from the court to be released from his duty to assist the accused. The court then directed that the accused be tried *in absentia* and counsel was relieved from his responsibility to his client and the court.^[8]

The prosecution presented the examining physician as well as Maria Lariosa and Norma Baquia. Notably, these witnesses were not cross-examined because, as already adverted to, Atty. Pabalinas earlier excused himself from the case. Neither did the court appoint another counsel for the accused.

The next hearing was set on 30 January 1996. However, for various reasons, the hearing was reset to 13 March 1996, 21 April 1996, 18 June 1996 and 17 July 1996.

Meanwhile, on 10 July 1996 the Jail Warden of San Carlos City reported to the court that the accused had been recaptured.^[9]

Atty. Florentino Saldavia, also of PAO, was appointed counsel *de officio* for the accused. On 17 July 1996 the prosecution presented Rogelio Baquia as its last witness. Atty. Saldavia cross-examined Rogelio but his questions were only considered token, and even irrelevant. Then the prosecution rested.

On 28 August 1996, the date set for the presentation of the evidence for the defense, Atty. Saldavia moved that the hearing be reset as he was not feeling well. On 19 November 1996, Atty. Saldavia again moved for postponement and the hearing was reset to 3 December 1996 on which date, instead of presenting evidence, Atty. Saldavia manifested that he was submitting the case for decision but invoking the plea of guilt of the accused as a mitigating circumstance. As recorded, the hearing proceeded thus -

Court: Call the case x x x x

Interpreter: Appearances.

Pros. Tabinas: Appearing for the government.

Atty. Saldavia: For the accused. Your honor please, this is already the turn of the defense to present evidence. He already pleaded GUILTY. We have no mitigating circumstance to prove except the plea of guilty. I believe there is no need of presenting evidence, he already pleaded guilty.

Court: (to Atty. Saldavia): You will rest the case?

Atty. Saldavia: Yes, your honor.

Pros. Tabinas: You will invoke the mitigating circumstance of plea of guilty?

Atty. Saldavia: Yes.

Pros. Tabinas: We have no objection to that.

Court: Order.

When this case was called for the presentation of evidence for the accused, counsel for the accused manifested that he had no evidence to present in favor of the accused except the plea of GUILTY made in open court.

In view thereof, the above-entitled case is hereby submitted for decision based on the evidence presented by the prosecution without the accused presenting evidence in his behalf except the plea of GUILTY which is admitted by the prosecution.

WHEREFORE, the above-entitled case is hereby submitted for decision.

SO ORDERED.^[10]

On 6 March 1997 the Regional Trial Court-Br. 57, San Carlos City, rendered its decision finding the accused guilty of rape with homicide and sentencing him to death and to pay the heirs of Virginia Baquia -P50,000.00 plus costs.^[11]

This case is now on automatic review. The defense contends that the court *a quo* erred in convicting the accused and imposing upon him the penalty of death as it failed to observe the required procedure for cases where the accused pleads guilty to a capital offense when arraigned.^[12] The defense also argues that the arraignment conducted by the trial court was null and void as it did not conduct a "searching inquiry" before accepting the plea of guilt and sentencing the accused to death. It concludes that since the arraignment was fatally defective and not in accordance with law, the case must be remanded to the court of origin for the proper arraignment of the accused before the capital punishment may be imposed.

We sustain the defense. Under Sec. 3, Rule 116, of the Revised Rules on Criminal Procedure, 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. It must also require the prosecution to prove his guilt and the precise degree of his culpability. If the accused so desires he may also present evidence in his behalf. This procedure is mandatory and a judge who fails to observe it commits grave abuse of discretion.^[13]

The questions propounded by the trial judge during arraignment hardly satisfied the requisite searching inquiry. Regrettably, there were only two (2) questions propounded to the accused: *First*. Do you understand your plea of guilt? *Second*. Do