

EN BANC

[G.R. Nos. 117485-86, April 22, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MELCHOR ESTOMACA Y GARQUE, ACCUSED-APPELLANT.**

D E C I S I O N

REGALADO, J.:

With our recent adjudgment in *People vs. Alicando*^[1] as a backdrop, even an initial perusal of the records of these cases now before us on appeal and/or automatic review gives a sense of paramnesia or, in the French term more often used, *deja vu*. One cannot escape the illusion of remembering events when experienced for the first time, or of something overly or unpleasantly familiar in the present appellate review.

Indeed, the courtroom *dramatis personae* in the cases at bar are the same as in *Alicando*, that is, the presiding judge,^[2] the government counsel *de officio*,^[3] and the substitute counsel *de parte*.^[4] The cases likewise involve the heinous crime of rape and were repressed by the sentence of death. The crux of the controversy in both is identically the validity *vel non* of the arraignment conducted by the same trial court which followed closely equivalent procedures in conducting the questioned proceedings. Hence, as will hereafter be demonstrated, the observations of this Court will also inevitably converge and move along the same channels of thought.

On May 24, 1994, consequent to five separate complaints, Criminal Cases Nos. 43567, 43568, 43569, 43570 and 43571 were filed in the Regional Trial Court, Branch 38, Iloilo City charging herein appellant, an illiterate laborer, with rape committed on five separate occasions against his own daughter, complainant Estelita Estomaca.

The trial court detailed its findings and the prosecution's contentions on the multiple incestuous rapes, as follows:

Melita is the eldest daughter of the accused, the second husband of Melita's mother. Melita has a full-blood younger brother around twelve (12) years old. She has two (2) half-blood sisters (from) the first marriage of her mother who are residing in Manila.

Melita claims that she was first raped in July 1993, at their residence at Barangay Tiolas, San Joaquin, Iloilo. This is now the subject of Criminal Case No. 43567. The offense was repeated by her father before Christmas of December, 1993 (Criminal Case No. 43568); January 1994 (Criminal Case No. 43569); February 1994 (Criminal Case No. 43570); and on March 6, 1994 (Criminal Case No. 43571).^[5]

There is some inconsistency in the statements on record as to what actually took place on June 14, 1994 during the arraignment of appellant, assisted by his government counsel *de officio*, Atty. Rogelio Antiquiera. The decision of the court below, dated July 15, 1994, declares that he entered a plea of guilty to Criminal Cases Nos. 43568 and 43571, and a plea of not guilty to Criminal Cases Nos. 43567, 43569 and 43570.^[6] Obviously engendered by the insufficiency of the proceedings conducted and the imprecision of the notes taken at this stage, this matter will be further discussed hereafter.

The two criminal complaints, both subscribed by the offended party on April 29, 1994 and which are the subject of the joint judgment of the lower court challenged in this appellate review, respectively allege:

Criminal Case No. 43568

That sometime in the month of December, 1993, in the Municipality of San Joaquin, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of his superior strength, abuse of confidence and trust, he being the father of the undersigned, with deliberate intent and by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with the undersigned who, at that time, (was) 15 years of age.^[7]

Criminal Case No. 43571

That on or about March 6, 1994, in the Municipality of San Joaquin, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the father of the undersigned complainant, with deliberate intent and by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse (with) the undersigned, who, at that time, (was) 15 years of age.^[8]

Proceeding upon the capital nature of the offenses involved, the trial court, after appellant ostensibly waived the presentation of evidence for his defense, required the prosecution to adduce evidence purportedly to establish appellant's guilt beyond reasonable doubt. Thus, on June 29, 1994, the complainant herself, Melita Estomaca, appeared in court and testified that she was raped by her father once in December, 1993 and, again, on March 6, 1994. Both incidents, according to her, took place inside their residence at Sitio Tan-agan, Barangay Tiolas in San Joaquin, Iloilo at nighttime and that, on those two occasions, she tried to resist her father's assaults to no avail. After the last rape, she gathered enough courage to flee from their home, and thereafter she reported the incidents to her mother who was then living separately from them. Apparently, appellant was later apprehended and has

since been under detention.^[9]

On the authority of Republic Act No. 7659 which took effect on December 31, 1993, the lower court imposed upon appellant the penalty of *reclusion perpetua* for the sexual assault supposedly perpetrated in December, 1993, and the supreme penalty of death with respect to the rape allegedly committed on March 6, 1994. In each of the said cases, he was further ordered to indemnify the offended party in the amount of P50,000.00 and to pay the costs.^[10]

What disconcerts this Court, however, is the alarming consistency of non-compliance by the court *a quo* of the procedural rules to be observed for the validity of the arraignment of an accused. Indeed, the importance of this particular stage of a criminal proceeding, especially when capital offenses are involved, cannot be over-emphasized. Hence, we pause at this juncture to once again briefly expound on this vital procedural aspect which the trial court, once in *Alicando* and again in the case at bar, appears to have treated with cavalier disregard or frustrating misapprehension.

1. In *People vs. Albert*,^[11] we traced the developmental antecedents which culminated and found expression in reglementary form in Section 3, Rule 116 of the 1985 Rules on Criminal Procedure governing a plea of guilty to a capital offense. We there pointed out that the rationale behind the rule is that courts must proceed with more care where the possible punishment is in its severest form - death - for the reason that the execution of such a sentence is irrevocable and experience has shown that innocent persons have at times pleaded guilty.^[12]

We stressed the need to avoid improvident pleas of guilt since the accused may thereby forfeit his life and liberty without having fully understood the meaning, significance and consequences of his plea.^[13] We lamented the confused application adopted or the apathetic indifference in the application of said rule considering the paramount importance of a valid arraignment, *it being the stage where the issues are joined in the criminal action and without which the proceedings cannot advance further or, if held, will otherwise be void*. We then enjoined the trial courts to review and reflect upon the jurisprudential and statutory rules which evolved over time in response to the injustice created by improvident pleas acknowledging guilt, at times belatedly discovered under the judicial rug, if at all.

With exacting certitude, Section 1(a) of Rule 116 requires that the arraignment should be made in open court by the judge himself or by the clerk of court furnishing the accused a copy of the complaint or information with the list of witnesses stated therein, then reading the same in the language or dialect that is known to him, and asking him what his plea is to the charge. The requirement that the reading be made in a language or dialect that the accused understands and knows is a mandatory requirement, just as the whole of said Section 1 should be strictly followed by trial courts. This the law affords the accused by way of implementation of the all-important constitutional mandate regarding the right of an accused to be informed of the precise nature of the accusation leveled at him and is, therefore, really an avenue for him to be able to hoist the necessary defense in rebuttal thereof.^[14] It is an integral aspect of the due process clause under the Constitution.

2. For a more graphic illustration, and thereby a clearer appreciation of what actually transpired in the so-called arraignment of appellant in the court below, we quote at length the pertinent transcripts of the stenographic notes taken at that stage, with emphasis on significant portions:

Pros. Nelson Geduspan	: For the prosecution.
Atty. Rogelio Antiquiera	: For the accused. Ready for arraignment.
Court	: The offended party is the daughter.
Interpreter	: (Reading the information/ complaint to the accused in Ilongo/local dialect). : For Crim. Case No. 43567, the accused, pleads Guilty. For Crim. Case No. 43568, the accused, pleads Guilty For Crim. Case No. 43569, the accused, pleads Guilty. For Crim. Case No. 43570, the accused, pleads Guilty. For Crim. Case No. 43571, the accused, pleads Guilty.
Court	: What is your educational attainment?
Witness	: I was not able to finish Grade I.
Court	: The court would like to explain to you in your plea of Guilty. If you plead Guilty to these five (5) offenses, definitely, you will have five (5) sentences.
Accused	: Yes, your honor.
Court	: Under the New Law the least most probably would be life sentence.
Accused	: Yes, your honor.
Court	: How old are you now?
Accused	: Forty two.
Court	: Because of this fact you have no chance to get back to the new society and your rights will be affected.
Accused	: I know. That's what they told to me.
Court	: Despite of (sic) this fact you still insist on your plea of guilty in these five cases?
Interpreter	: According to him, he performed only two (2) acts.
Court	: When (were) these two acts performed?
Accused	: December 1993 and March 1994.
Court	: The other cases charged against you (are) not true?
Accused	: It is not true maybe it was committed by her boyfriend then it was charged against me.
Court	: In so far as . . . What is not included in the plea therefore, is the month of July 1993, January 1994 and the month of February 1994. You did not commit these? Why is it that when you were asked you entered a plea of guilty?
Accused	: Because I committed two acts only.

Court : Why is it that when you were asked you entered a plea of guilty?

Accused : Because what I recall is that I just committed two acts of rape.

Court : Not Guilty in the three (3) charges and Guilty in two (2) charges. Does counsel and accused agree to pre-trial conference?

Atty. Antiquiera : We dispense (with) the pre-trial conference.

Court : For the two charges (to) which he pleads guilty, the court will receive evidence in order to impose the proper penalty and on the other charges, the court will receive evidence for the prosecution.
[15] (Italics and corrections in parentheses ours.)
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At the subsequent hearing, just like what happened in Alicando, the presiding judge went through the same formality of having appellant stand again before him, and this is what transpired:

Court : Before the court allows the prosecution to present evidence, accused, please come here again. (At this juncture, the accused came near to the court)

Court : The court informs you as accused that you are charged (with) the crime of rape; under the new law which if you plead guilty, you will be sentence(d) to death penalty, did you understand that?

A : Yes, Your Honor.

Q : Despite this warning for the second time by the court to you, do you still insist (o)n your plea of guilty?

A : Yes, Your Honor.

Q : Is this plea your voluntary will without force or intimidation from anyone else to include the complaining witness or the family?

A : No, Your Honor.

Q : So, therefore, the court will allow you to present evidence if you wis(h) to because you insist (o)n your plea of guilty. Do you intend to present evidence.

A : No, I will not present evidence.

Court : Okey, because of this the court will receive evidence of the prosecution. In another case, the last time when arraigned, you admitted that sometime in December, 1993, you likewise raped your daughter, do you still confirm and affirm this?

A : Yes, Your Honor.