388 Phil. 311

EN BANC

[G.R. No. 130026, May 31, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO MAGAT Y LONDONIO, ACCUSED-APPELLANT.

D E C I S I O N

PER CURIAM:

Before this court for automatic review is the joint decision of the Regional Trial Court of Quezon City, Branch 103, in Criminal Cases Nos. Q-96-68119 and Q-96-68120, finding accused-appellant Antonio Magat y Londonio guilty of raping his daughter, Ann Fideli L. Magat, on two occasions and sentencing him to suffer the extreme penalty of death for each case, and to pay the sum of P750,000.00 as compensatory, moral and exemplary damages.

The two (2) Informations, charging accused-appellant with rape reads:

CRIMINAL CASE NO.Q-96-68119

"The undersigned, upon sworn complaint of the offended party, nineteen year old (19) ANN FIDELI LIMPOCO MAGAT, accuses ANTONIO MAGAT y LONDONIO, her father, of the crime of rape defined and penalized under Article 335, Revised Penal code, as amended by RA 7659, committed as follows:

"That on or about the 14th day of August 1994, during the 17th birthday of Ann Fideli L. Magat in Kasunduan, Quezon City and within the jurisdiction of the Honorable Court, accused ANTONIO MAGAT Y LONDONIO, with lewd designs, and by means of threat and violence, did then and there, unlawfully and feloniously, lie and succeeded in having sexual intercourse with Ann Fideli Limpoco Magat."[1]

CRIMINAL CASE NO. Q-96-68120

"The undersigned, upon sworn complaint of the offended party, nineteen year old (19) ANN FIDELI LIMPOCO MAGAT, accuses ANTONIO MAGAT y LON DONIO, her father, of the crime of rape defined and penalized under Article 335, Revised Penal Code, as amended by RA 7659, committed as follows:

That on or about the 1st day of September1996, in Barangay Holy Spirit, Quezon City, and within the jurisdiction of this Honorable Court, accused ANTONIO MAGAT Y LONDONIO, with lewd designs and by means of threat and violence, did then and there, unlawfully and feloniously, lie

and succeeded in having sexual intercourse with Ann Fideli Limpoco Magat."[2]

Upon arraignment on January 10, 1997, accused-appellant pleaded guilty but bargained for a lesser penalty for each case. Complainant's mother, Ofelia Limpoco Magat, and the public prosecutor, Rio Espiritu agreed with the plea bargain. Consequently, the trial court issued, on that same day, an Order, the fallo of which reads: katarungan

> "On arraignment, accused with the assistance of his counsel Atty. Diosdado Savellano and upon the request of the accused, the information was read and explained to him in tagalog, a dialect known to him and after which accused entered a plea of "GUILTY" to the crime charged against him, and further pleads for a lower penalty to which the Hon. Public Prosecutor interpose no objection.
>
> ACCORDINGLY, the court hereby finds the accused ANTONIO LON DONIO MAGAT, GUILTY beyond reasonable doubt of the crime of Violation of Article 335, RPC in relation to RA 7659 and he is hereby sentenced to suffer a jail term of ten (10) years imprisonment for each case."[3]

After three months, the cases were revived at the instance of the complainant on the ground that the penalty imposed was "too light."[4]As a consequence, accused-appellant was re-arraigned on both Informations on April 15, 1997 where he entered a plea of not guilty.[5]

Thereafter, trial on the merits ensued with the prosecution presenting Dr. Ida Daniel, medico-legal officer of the National Bureau of Investigation and complainant's mother.

On July 3, 1997 accused-appellant entered anew a plea of guilty.[6] The court read to him the Informations in English and Tagalog and repeatedly asked whether he understood his change of plea and propounded questions as to his understanding of the consequences of his plea.[7]

Convinced of accused-appellant's voluntariness of his plea of guilty, the court required the taking of complainant's testimony. The accused-appellant did not present any evidence.

On July 15, 1997, the trial court rendered judgment, the decretal portion of which reads:

> "CONSEQUENTLY, the court renders judgment finding the accused ANTONIO MAGAT y LONDONIO, GUILTY of the crime of Rape in violation of Article 335 of the Revised Penal Code, as amended, beyond reasonable doubt and accordingly, sentences him as follows:
>
> 1. In Crim. Case No. Q-96-68119, the accused Antonio Magat y Londonio is sentenced to DEATH by lethal injection; and
> 2. In Crim. Case No. Q-96-68120, the accused Antonio Magat y Londonio is sentenced to DEATH

by lethal injection.

> On the civil aspect, the accused Antonio Magat y Londonio is hereby ordered to pay Ann Fideli Limpoco Magat the sum of P50,000.00 as compensatory damages; further sum of P200,000.00 as moral damages and another sum of P500,000.00 as exemplary and corrective damages.
>
> SO ORDERED."[8]

Hence, this automatic review.

Accused-appellant contends that the trial court erred in re-arraigning and proceeding into trial despite the fact that he was already convicted per Order of the trial court dated January 10,1997 based on his plea of guilt. He also argues that when the court rendered judgment convicting him, the prosecution did not appeal nor move for reconsideration or took steps to set aside the order. Consequently, the conviction having attained finality can no longer be set aside or modified even if the prosecution later realizes that the penalty imposed was too light. Accused-appellant likewise posit that the re-arraignment and trial on the same information violated his right against double jeopardy.

The January 10, 1997 order of the trial court convicting the accused-appellant on his own plea of guilt is *void ab initio* on the ground that accused-appellant's plea is not the plea bargaining contemplated and allowed by law and the rules of procedure. The only instance where a plea bargaining is allowed under the Rules is when an accused pleads guilty to a lesser offense. Thus, Section 2, Rule 116 of Revised Rules of Court provides:

> "Sec. 2. ***Plea of guilty to a lesser offense.***- The accused, with the consent of the offended party and the fiscal, may be allowed by the trial court to plead guilty to a lesser offense, regardless of whether or not it is necessarily included in the crime charged, or is cognizable by a court of lesser jurisdiction than the trial court. No amendment of the complaint or information is necessary.
>
> "A conviction under this plea shall be equivalent to a conviction of the offense charged for purposes of double jeopardy."

Here, the reduction of the penalty is only a consequence of the plea of guilt to a lesser penalty.

It must be emphasized that accused-appellant did not plead to a lesser offense but pleaded guilty to the rape charges and only bargained for a lesser penalty. In short, as aptly observed by the Solicitor General, he did not plea bargain but made conditions on the penalty to be imposed. This is erroneous because by pleading guilty to the offense charged, accused-appellant should be sentenced to the penalty to which he pleaded.

It is the essence of a plea of guilty that the accused admits absolutely and unconditionally his guilt and responsibility for the offense imputed to him.[9] Hence, an accused may not foist a conditional plea of guilty on the court by admitting his

guilt provided that a certain penalty will be meted unto him.[10]

Accused-appellant's plea of guilty is undoubtedly a conditional plea. Hence, the trial court should have vacated such a plea and entered a plea of not guilty for a conditional plea of guilty, or one subject to the proviso that a certain penalty be imposed upon him, is equivalent to a plea of not guilty and would, therefore, require a full-blown trial before judgment may be rendered.[11]

In effect, the judgment rendered by the trial court which was based on a void plea bargaining is also *void ab initio* and can not be considered to have attained finality for the simple reason that a *void* judgment has no legality from its inception.[12] Thus, since the judgment of conviction rendered against accused-appellant is *void*, double jeopardy will not lie.

Nonetheless, whatever procedural infirmity in the arraignment of the accused-appellant was rectified when he was re-arraigned and entered a new plea. Accused-appellant did not question the procedural errors in the first arraignment and having failed to do so, he is deemed to have abandoned his right to question the same[13] and waived the errors in procedure.[14]

Accused-appellant also maintains that assuming that there was proper basis for setting aside the Order of January 10,1997, the trial court erred in not finding that he made an improvident plea of guilty. He faults the trial court in not complying with the procedure laid down in the Section 3, Rule 116 of the Revised Rules of Court.[15] He claims that the record of the case fails to support the trial court's assertion that it conducted a searching inquiry to determine that the accused-appellant voluntarily entered his plea of guilty with full understanding of the consequences of his plea. He claims that there is no evidence that the trial court conducted searching inquiry in accordance with the rules.

Under the present rule, if the accused pleads guilty to capital offense, trial courts are now enjoined: (a) to conduct searching inquiry into the voluntariness and full comprehension of the consequences of his plea; (b) to require the prosecution to present evidence to prove the guilt of the accused and the precise degree of his culpability; and (c) to ask the accused if he so desires to present evidence in his behalf and allow him to do so if he desires.[16]

This Court, in a long line of decisions imposed upon trial judges to comply with the procedure laid down in the rules of arraignment, particularly the rules governing a plea of guilty to a capital offense in order to preclude any room for reasonable doubt in the mind of either the trial court or of this Court, on review, as to the possibility that there might have been some misunderstanding on the part of the accused as to the nature of the charges to which he pleaded guilty and to ascertain the circumstances attendant to the commission of the crime which justify or require the exercise of a greater or lesser degree of severity in the imposition of the prescribed penalties.[17] Apart from the circumstances that such procedure may remove any doubt that the accused fully understood the consequences of his plea is the fact that the evidence taken thereon is essential to the fulfillment by this Court of its duty of review of automatic appeals from death sentences.[18]

We have carefully reviewed the record of this case and are convinced that the trial judge has faithfully discharged his bounden duty as minister of the law to determine the voluntariness and full understanding of accused-appellants' plea of guilty. The absence of the transcript of stenographic notes of the proceedings during the arraignment do not make the procedure flawed. The minutes of the proceedings[19] indubitably show that the judge read the Informations to the accused-appellant both in English and Tagalog, asked him questions as to his understanding of the consequences of his plea, his educational attainment and occupation. Accused-appellant could have known of the consequence of his plea having pleaded twice to the charges against him. In fact, in the two (2) letters sent to the trial court judge, accused-appellant not only admitted his "sins" but also asked for forgiveness and prayed for a chance to reform.[20]

Moreover, the prosecution has already presented its evidence. Thus, even assuming that there was an improvident plea of guilt, the evidence on record can sustain the conviction of the accused-appellant.

The testimony of the complainant, as summarized by the Solicitor General, reveal:

> "Complainant's x x x parents separated when she was only seven (7) years old and she and her younger brother David were left with her father, accused-appellant, while another brother, Jonathan, and sister, Abigail, stayed with their mother (TSN, July 15, 1997, p. 46; May 22, 1997, pp. 38-41; 49-51).
>
> "On her 9th birthday, her father first raped her and she was beaten when she resisted, thus, she found it futile to resist every time her father touched her after that (TSN, supra, pp. 24-25).
>
> "August 14, 1994, was complainant's 17th birthday. That evening, while sleeping together with accused-appellant and her brother in their rented house at Kasunduan, Quezon City, she was awakened by the kisses of her father. He then removed her clothes and after removing his own clothes, went on top of her and inserted his penis inside her vagina as he had done to her many times before this incident. After he had finished, he told her to wash her vagina which she did (TSN, supra, pp. 12-17).
>
> "On September 1, 1996, complainant who was already 19 years old, was at home with accused-appellant and her brother after 'selling' when her father ordered her and her brother to go to sleep. Her brother fell asleep but complainant could not sleep and was restless that night. Again, accused-appellant raped her on the same bed where her brother was also sleeping. She did not resist him anymore because nothing would happen anyway and he would just beat her if she did (TSN, supra, 21-25).
>
> "x x x complainant further revealed that she was not only sexually abused but also physically abused by accused-appellant who even beat her with a whip while being tied and struck her with a bag containing tin cans causing head injuries necessitating her hospitalization. She also confirmed that her father started raping her on her 9th birthday which was repeated several times after that. She likewise revealed that she felt some fluid ('katas') coming out of her father’s penis every time he raped