

## EN BANC

[ G.R. No. 130590, October 18, 2000 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
RANILLO PONCE HERMOSO ALIAS "ALLAN," ACCUSED-  
APPELLANT.**

### DECISION

#### PER CURIAM:

For review is the decision<sup>[1]</sup> of the Regional Trial Court, Branch 19, Pagadian City, finding accused-appellant Ranillo Ponce Hermoso, alias "Allan," guilty of rape with homicide and sentencing him to suffer the penalty of death with all the accessory penalties prescribed by law and to indemnify the heirs of the victim, Glery P. Geoca, in the amount of P500,000.00 as actual damages, P750,000.00 as moral damages, and P500,000.00 as exemplary damages, without subsidiary imprisonment in case of insolvency.

The amended information<sup>[2]</sup> against accused-appellant alleged —

"That on June 2, 1996 at about 9:30 o'clock in the evening at Barangay Little Baguio, Municipality of Imelda, Province of Zamboanga del Sur, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one Glery Geoca, a minor, seven (7) years of age, against the latter's will and on said occasion and by reason of the rape, the said Glery Geoca died as a result of personal violence inflicted upon her by the accused.

"Act contrary to Article 335 of the Revised Penal Code as amended by R.A. No. 7659."

On September 11, 1996, accused-appellant, assisted by counsel, was arraigned during which the information was read to him in the Cebuano dialect which he confirmed to have understood. He then entered a plea of not guilty. He was informed by the trial court of the names of the five prosecution witnesses and their respective addresses. Then the case was tried.

The prosecution presented six witnesses, namely, Josephine Gonzales, Naciansino Hermoso, Sonny Boy Altamera, Joveniano Pansacala, Ireneo Geoca, father of the victim, and Dr. Atilano A. Ocampos, Chief of Hospital I of the Alicia District Hospital in Alicia, Zamboanga del Sur.

The prosecution also offered the following object and documentary evidence, to wit: the wallet (Exh. A) of accused-appellant containing his personal identification, such as Social Security System I.D. Card No. 0462677-7 (Exh. B), a photocopy of his SSS personal record (Exh. D), and his Community Tax Certificate No. 18046043 (Exh. E);

five sweepstakes tickets bearing No. 236458 with April 21, 1996 as draw date (Exh. C); a picture of Miss Limpac (Exh. F), niece of Naciansino Hermoso, with a dedication at the back of the picture reading "Love, take care, good health, good luck, God Bless You"; a small picture (Exh. G); another picture (Exh. H); a picture of accused-appellant's younger sister (Exh. I) a picture of his younger brother named Benjie (Exh. J); a group picture (Exh. K); and two coins (Exh. L) - a P1.00 coin and a P0.10 coin; the birth certificate of the victim Glery P. Geoca (Exh. M, with sub-markings) showing her date of birth as September 12, 1988; and a Certification issued by Dr. Atilano A. Ocampos (Exh. N and its sub-markings) on the postmortem examination conducted on the victim.

The prosecution evidence shows the following:

At about 6:00 p.m. of June 2, 1996, Ireneo Geoca, father of the victim Glery P. Geoca, became worried as his daughter had not come home from the Little Baguio Elementary School in Imelda, Zamboanga del Sur where she was in Grade II. Ireneo Geoca sent his other daughter Girlie Geoca to look for the victim. When the victim failed to be home at 7:00 p.m., Ireneo Geoca sought the help of the barangay officials and his neighbors.<sup>[3]</sup> In response, Barangay Captain Sonny Boy Altamera organized a search team composed of barangay tanods and other civilians. On their way to look for Glery, Altamera and his party met Josephine Gonzales who told them that she saw the victim in the company of accused-appellant at about 5:30 p.m. of that day as they passed by her house. The two were walking toward the house of one Helen Dabasol, according to the witness. Altamera was likewise informed by Lilia Bartido, who owned a nearby store, that she saw accused-appellant handing some candies to the victim at about 6:00 p.m. of that day.<sup>[4]</sup>

Altamera and his party, therefore, proceeded to the house of accused-appellant where he met Federico Hermoso, father of the accused-appellant. Altamera informed the elder Hermoso that Glery was missing and that she was last seen with his son. Altamera was allowed inside the house but he did not find accused-appellant. He later found accused-appellant under a tree, about 10 meters away from the house. Accused-appellant denied knowledge of the whereabouts of the missing girl. At about 9:30 a.m., with the consent of his family, accused-appellant was taken by Altamera to his house. Accused-appellant was accompanied by Federico Hermoso, Ernesto Pardillo, Jave Tamac, and some neighbors.<sup>[5]</sup>

At about 12:30 a.m. of June 3, 1996, Naciansino Hermoso and his group went to the house of Altamera bringing with them a man's wallet, which Naciansino said he found on a grassy area in Barangay Little Baguio. The wallet contained, among other things, accused-appellant's SSS identification card, a photocopy of his SSS personal record, his Community Tax Certificate No. 18046043, five sweepstakes tickets, pictures of accused-appellant's younger brother and sister, and two coins.<sup>[6]</sup> Naciansino turned over the wallet and its contents to Barangay Captain Altamera. Upon seeing his wallet, accused-appellant admitted raping and killing Glery P. Geoca and pointed out the place where the body of the victim could be found, which is about 200 meters away from where the wallet was discovered. A team led by Joveniano Pansacala found the body of the victim at about 1:00 a.m. of that day. The body showed signs that Glery had been subjected to violence and raped.

Accused-appellant was thereafter turned over to the police. In the meantime, upon instructions of the mayor, the body of the victim was examined.<sup>[7]</sup> Per her

Certificate of Death,<sup>[8]</sup> the cause of Glery P. Geoca's death was cardio-respiratory failure, the antecedent cause was rape and the underlying cause was asphyxia by strangulation. Dr. Atilano A. Ocampos, who conducted an autopsy on the body on June 3, 1996, found the following:

- "= Multiple punctuate hematoma temporal right, abrasions inner canthi, bilateral; hematoma 8 inches in length, 1 inch in width, semi-circular, temporo-frontal area, face left, extending to the zygomatic area; multiple abrasions of buccal mucosa upper and lower lips
- = Multiple abrasions 1x1 in diameter, average, neck
- = Circular hematoma 2x3 in diameter, bilateral, mammary glands
- = Massive hematoma 3x3 in diameter, circular, lateral arm left; linear abrasions multiple, forearm right
- = Abrasion 1 centimeter diameter 5<sup>th</sup> finger, left, dorsum
- = Multiple abrasion lateral and medial aspect upper extending right
- = Hematoma massive vulva and mons pubis
- = Hematoma moderate 2 in number anterior thigh, right
- = Hematoma 1x 1 in diameter middle anterior shin, left
- = Linear abrasion 1 inch postero-lateral, level of the 10<sup>th</sup> posterior rib
- = Linear abrasion 6 inches in length running oblique lumbo-sacral area, posterior
- = Massive hematoma 4 inches in diameter level of the 10<sup>th</sup> thoracic vertebrae
- = Hematoma labia minora right upper quadrant = Laceration, entroitus, ruptured hymen
- = Hematoma cervix left, laceration vaginal canal right"<sup>[9]</sup>

Dr. Ocampos testified that the body was in a state of rigor mortis when he examined it. The victim sustained contusions and multiple hematoma and was thereafter choked to death. He opined that the hymenal laceration could have been caused by pressure or trauma such as sexual intercourse.<sup>[10]</sup>

After the prosecution had offered its testimonial and documentary evidence, accused-appellant filed a demurrer to which the prosecution filed a reply. On

January 9, 1997, the trial court denied accused-appellant's demurrer to evidence for lack of merit.

On March 17, 1997, the defense manifested in open court that accused-appellant was changing his plea from "not guilty" to "guilty." Defense counsel Atty. Pablito Pielago, Jr. informed the trial court that he had prepared for trial but accused-appellant insisted on changing his plea even after being told of the consequences of pleading guilty to the charge, including the probability that he would be sentenced to death should he be found guilty. Accordingly, the trial court issued an order on the same day stating:

"When the above-entitled case was called for continuation of trial for the purpose of presenting evidence of accused Ranillo Ponce Hermoso alias Allan, Prosecutor Edilberto Absin appeared for the state in collaboration with private prosecutor Atty. Marcial Empleo, while Atty. Pablito Pielago, Jr., appeared as counsel de oficio for the accused. In open court, Atty. Pablito Pielago, Jr., Manifested that the accused has intimated to him on his desire to change his plea of Not Guilty to one of GUILTY. When asked by the Court whether he has explained to the accused of the seriousness of the crime he is charged, Atty. Pablito Pielago, Jr., confirmed to the Court that he has explained in detail to the accused on the seriousness of the charge he is facing, but he still insisted on his desire to admit his guilt. In fact, according to Atty. Pielago, he went to the extent of telling the accused that it is possible that the Court may render the penalty of death, but accused insisted on his desire to change his plea of Not Guilty to one of Guilty.

"With such manifestation of Atty. Pielago, the Court called on the accused and asked him through the interpreter in Cebuano dialect, which he confirmed to have known and understood, on his desire to change his plea of Not Guilty to one of Guilty, and in open court, in the presence of his counsel, the public prosecutor and the private prosecutor, accused voluntarily admitted his guilt of the charge filed against him in this case.

"WHEREFORE, with such desire of the accused to change his plea from Not Guilty to one of Guilty, let him be arraigned anew.

"SO ORDERED."<sup>[11]</sup>

The defense then informed the court that it was not presenting any evidence, for which reason the case was considered submitted for decision.

On June 10, 1997, the trial court rendered its decision, the dispositive portion of which reads:

"WHEREFORE, this Court hereby finds accused RANILO PONCE HERMOSO alias "Allan" guilty beyond reasonable doubt of the crime of RAPE WITH HOMICIDE, and sentences him to the ultimate penalty of DEATH, with all the accessory penalties prescribed by law, and orders him to pay the heirs of Glery Geoca the sum of P500,000.00 as actual damages, P750,000.00 as moral damages and P500,000.00 as exemplary damages without subsidiary imprisonment in case of insolvency.

"No pronouncement as to costs.

"SO ORDERED."<sup>[12]</sup>

Pursuant to Rule 122, section 10 of the Rules on Criminal Procedure, the case was elevated to this Court for automatic review in view of the imposition of the death penalty on accused-appellant.

Accused-appellant maintains that, based on the evidence of the prosecution, his guilt has not been shown beyond reasonable doubt. Reiterating the grounds for his demurrer to the evidence, he contends that while Josephine Gonzales said she saw the victim and accused-appellant and other children pass by her house as they went towards the house of her neighbor Helen Rabasol, there was no testimony showing that he was the perpetrator of the crime. Accused-appellant also denies the testimony of Naciansino Hermoso who claimed to have found the wallet belonging to accused-appellant while looking for Glery P. Geoca. Accused-appellant avers that the wallet does not constitute direct evidence to link him to the crime. Naciansino Hermoso and accused-appellant's father are brothers. Accused-appellant claims that Naciansino had a grudge against accused-appellant's father because the latter had been occupying and cultivating the agricultural land of their parents to the exclusion of Naciansino. Accused-appellant alleges that Naciansino sought revenge towards accused-appellant's father by testifying against accused-appellant. Accused-appellant alleges that the testimonies of Joveniano Pansacala, Dr. Atilano A. Ocampos, and Ireneo Geoca are hearsay evidence and do not prove his guilt. He argues that his confession is inadmissible in evidence because it was given without counsel while he was under custodial investigation by Barangay Captain Sonny Boy Altamera.

These contentions are without merit.

To be sure, a perusal of the records show that the trial court accepted accused-appellant's plea of guilty to a capital offense without making a searching inquiry to determine whether he understood the consequences of his plea. This is contrary to Rule 116, section 3 of the Rules on Criminal Procedure which makes it the duty of the court, when an accused pleads guilty to a capital offense, to undertake the following: (1) conduct a searching inquiry into the voluntariness of the plea and the accused's comprehension of the consequences thereof; (2) require the prosecution to prove the guilt of the accused and the precise degree of his culpability; and (3) ask the accused if he desires to present evidence on his behalf and allow him to do so if he desires.<sup>[13]</sup> To constitute a searching inquiry, the questioning must focus on (1) the voluntariness of the plea, and (2) whether the accused understood fully the consequences of his plea.<sup>[14]</sup> The judge must be convinced that in pleading guilty, the accused is truly guilty by requiring the accused to narrate the events leading to the crime, making him re-enact it, or asking him to supply missing details.

In the present case, the records show that the trial court did not observe these safeguards to ensure that the plea of guilty is not improvidently made. There was no affidavit presented nor statement made in court to show why accused-appellant changed his plea from "Not guilty" to "guilty." The records merely contain an order, dated March 17, 1997,<sup>[15]</sup> allowing accused-appellant to be arraigned anew, the Certificate of Arraignment, dated March 17, 1997,<sup>[16]</sup> and the order, likewise dated March 17, 1997, making accused-appellant's plea of guilt of record. This last order states: