

G.R. No. 241257 – PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*
v. BRENDOP. PAGAL a.k.a. “DINDO,” *accused-appellant*.

Promulgated:
September 29, 2020

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DISSENTING OPINION

PERLAS-BERNABE, J.:

Respectfully, I disagree with the *ponencia*'s proposal to acquit accused-appellant Brendo P. Pagal (accused). For the reasons herein explained, the case should be remanded to the trial court so that the accused may be re-arraigned, and in so doing, enter the proper plea. The lack of a valid plea in this case taints the entire criminal proceedings and hence, precludes the trial court from rendering a valid verdict.

To recount, the accused was charged with, and thereafter, pleaded guilty to the capital offense of Murder. Under Section 3, Rule 116 of the Rules of Criminal Procedure (Section 3, Rule 116), “[w]hen 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** and shall require the prosecution to prove his guilt and the precise degree of culpability. x x x”¹ However, the trial court judge failed to conduct the required searching inquiry. The prosecution was then given four (4) hearing dates to present its evidence, but none of its witnesses appeared and testified during any of these dates. In light of this, the defense likewise chose not to present any evidence. Eventually, both the prosecution and the defense submitted the case for decision.

The trial court convicted the accused of Murder based solely on his plea of guilty. On appeal, the Court of Appeals (CA) set aside accused's conviction and instead, ordered that the case be remanded with a directive that the trial court follow the mandate of Section 3, Rule 116.

The *ponencia* reverses and sets aside the CA ruling and instead, pronounces that the accused be acquitted. It held that since the prosecution was given four (4) separate hearing dates to present evidence against the accused, and despite these chances, the prosecution was unable to prove his guilt, his acquittal is in order.²

As earlier intimated, I respectfully disagree.

¹ Emphasis supplied.

² *Ponencia*, p. 58

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In criminal proceedings, an arraignment has been regarded as an integral requirement of procedural due process:

Procedural due process requires that the accused be arraigned so that he [or she] may be informed of the reason for his [or her] indictment, the specific charges he [or she] is bound to face, and the corresponding penalty that could be possibly meted against him [or her].³

Particularly, an arraignment is “**the formal mode and manner of implementing the constitutional right of an accused to be informed of the nature and cause of the accusation against him.**”⁴ In *Borja v. Mendoza*,⁵ the Court has highlighted that “[a]n arraignment x x x [is] **indispensable** as the means ‘for bringing the accused into court and notifying him of the cause he is required to meet.’”⁶ In the same case, the Court discussed the complementary relation of a valid arraignment to the rule regarding the sufficiency of the Information, which both serve the purpose of preserving the accused’s right to be informed of the nature and cause of the accusation against him:

[I]t is at that stage where in the mode and manner required by the Rules, an accused, for the first time, is granted the opportunity to know the precise charge that confronts him. It is imperative that he is thus made fully aware of possible loss of freedom, even of his life, depending on the nature of the crime imputed to him. At the very least then, he must be fully informed of why the prosecuting arm of the state is mobilized against him. An arraignment serves that purpose. Thereafter he is no longer in the dark. **It is true, the complaint or information may not be worded with sufficient clarity. He would be in a much worse position though if he does not even have such an opportunity to plead to the charge.** With his counsel by his side, he is thus in a position to enter his plea with full knowledge of the consequences. He is not even required to do so immediately. He may move to quash. What is thus evident is that an arraignment assures that he be fully acquainted with the nature of the crime imputed to him and the circumstances under which it is allegedly committed. **It is thus a vital aspect of the constitutional rights guaranteed him. It is not useless formality, much less an idle ceremony.**⁷ (Emphases supplied)

Since the arraignment is meant to formally inform the accused of the essential details of the charge against him, a valid arraignment is also important for the accused to adequately prepare his defense. The groundwork for the defense stems from the accused’s preliminary understanding of the import and consequences of the charge against him. Case laws states that “the right of an accused to be informed of the precise nature of the accusation leveled at him x x x is, therefore, really an avenue

³ See *Corpus, Jr. v. Pamular*, G.R. No. 186403, September 5, 2018.

⁴ See *People v. Palema*, G.R. No. 228000, July 10, 2019; emphasis supplied. See also *People v. Nuelan*, 419 Phil. 160 (2001).

⁵ 168 Phil. 83 (1977)

⁶ Id. at 86; emphasis supplied.

⁷ Id. at 87.

for him to be able to hoist the necessary defense in rebuttal thereof.”⁸ In *People v. Alcalde*:⁹

The constitutional right to be informed of the nature and cause of the accusation against him under the Bill of Rights carries with it the correlative obligation to effectively convey to the accused the information to enable him to effectively prepare for his defense.¹⁰

Without a valid arraignment, therefore, the accused’s ability to defend himself is tainted; hence, an invalid arraignment must be considered as a fatal defect in the criminal proceedings.

The importance of a valid arraignment gains additional nuance when the accused pleads guilty to a capital offense. As mentioned, Section 3, Rule 116 requires that on such occasion, the trial court judge must first conduct a searching inquiry into the voluntariness and full comprehension of the accused of his plea of guilty to a capital offense. In addition, trial court judges are enjoined to require the prosecution to present evidence to prove the guilt of the accused and the precise degree of his culpability; and to ask the accused to present evidence in his behalf and allow him to do so if he so desires.¹¹

The rationale behind this special rule on searching inquiries is that “courts must proceed with more care where the possible punishment is in its severest form, namely 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. The primordial purpose is to avoid improvident pleas of guilt on the part of an accused where grave crimes are involved since he might be admitting his guilt before the court and thus forfeit his life and liberty without having fully understood the meaning, significance and consequence of his plea.”¹²

While the Rules of Criminal Procedure do not specify the actual matters that must be addressed during this searching inquiry, the Court, in several cases, has laid down the following guidelines that trial court judges must observe in this respect:

1. Ascertain from the accused himself (a) how he was brought into the custody of the law; (b) whether he had the assistance of a competent counsel during the custodial and preliminary investigations; and (c) under what conditions he was detained and interrogated during the investigations. **This is intended to rule out the possibility that the accused has been coerced or placed under a state of duress either by actual threats of physical**

⁸ *People v. Estomaca*, 326 Phil. 429, 438 (1996).

⁹ 432 Phil. 366 (2002).

¹⁰ *Id.* at 379.

¹¹ See *People v. Magat*, 388 Phil. 311, 322 (2000).

¹² *People v. Ernas*, 455 Phil. 829, 838 (2003).

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harm coming from malevolent quarters or simply because of the judge's intimidating robes.

2. Ask the defense counsel a series of questions as to whether he had conferred with, and completely explained to, the accused the meaning and consequences of a plea of guilty.
3. Elicit information about the personality profile of the accused, such as his age, socio-economic status, and educational background, which may serve as a trustworthy index of his capacity to give a free and informed plea of guilty.
4. Inform the accused the exact length of imprisonment or nature of the penalty under the law and the certainty that he will serve such sentence. For not infrequently, an accused pleads guilty in the hope of a lenient treatment or upon bad advice or because of promises of the authorities or parties of a lighter penalty should he admit guilt or express remorse. It is the duty of the judge to ensure that the **accused does not labor under these mistaken impressions because a plea of guilty carries with it not only the admission of authorship of the crime proper but also of the aggravating circumstances attending it, that increase punishment.**
5. Inquire if the accused knows the crime with which he is charged and fully explain to him the elements of the crime which is the basis of his indictment. **Failure of the court to do so would constitute a violation of his fundamental right to be informed of the precise nature of the accusation against him and a denial of his right to due process.**
6. All questions posed to the accused should be in a language known and understood by the latter.
7. The trial judge must satisfy himself that the accused, in pleading guilty, is truly guilty. The accused must be required to narrate the tragedy or reenact the crime or furnish its missing details.¹³ (Emphases supplied)

Ultimately, however, “[t]he bottom line of the rule is that the plea of guilt must be **based on a free and informed judgment.** Thus, the searching inquiry of the trial court must be focused on: (1) **the voluntariness of the plea,** and (2) **the full comprehension of the consequences of the plea.** The questions of the trial court [must] show the voluntariness of the plea of guilt of the [accused] [and that] the questions demonstrate appellant’s full comprehension of the consequences of his plea.”¹⁴

Recent cases convey that a conviction based solely on an improvident plea of guilt **shall be set aside and the case remanded for further proceedings.**¹⁵ This notwithstanding, some of these cases interestingly show that despite an improvident plea, a judgment of conviction may be sustained

¹³ See *People v. Gambao*, 718 Phil 507, 521-522 (2013); and *People v. Mira*, 561 Phil. 646, 656-657 (2007); *People v. Ernas*, supra, at 839-840; and *People v. Pastor*, 428 Phil. 976, 986-987 (2002).

¹⁴ *People v. Alicando*, 321 Phil. 656, 681 (1995); emphases supplied.

¹⁵ See *People v. Durango*, 386 Phil. 202 (2000).

if the prosecution is nonetheless able to present ample evidence independent from the improvident guilty plea.¹⁶ To my mind, these more recent cases appear to gloss over the older line of jurisprudence which soundly holds that **“no valid judgment can be rendered upon an invalid arraignment.”**¹⁷

In *People v. Molina*,¹⁸ the Court set aside the plea of guilt and remanded the case since it could not determine whether or not the trial court complied with the conduct of searching questions to ensure the accused’s plea of guilt was proper. This Court declared that a **“judgment of conviction cannot stand upon an invalid arraignment.”**¹⁹

In *People v. Tizon*,²⁰ the Court observed that “[s]o indispensable is this requirement that a plea of guilt to a capital offense can be held null and void where the trial court has inadequately discharged the duty of conducting the prescribed ‘searching inquiry.’”²¹ **“Verily, a judgment of conviction cannot stand upon an invalid arraignment.** In the interest of substantial justice then, this Court has no recourse but to remand the case to the trial court for further and appropriate proceedings.”²²

In *People v. Estomaca*,²³ citing *People v. Alicando*,²⁴ the Court similarly ruled that **“[n]o valid judgment can be rendered upon an invalid arraignment. Since x x x the arraignment of appellant therein was void, the judgment of conviction rendered against him was likewise void, hence in fairness to him and in justice to the offended party that case was remanded to the trial court for further proceedings.”**²⁵

Indeed, I subscribe to these earlier cases on the subject since ultimately, an invalid arraignment constitutes a fatal defect in the criminal proceedings precluding the trial court from making a valid judgment, whether of acquittal or conviction. On the contrary, I maintain reservations with the more recent cases which still uphold a judgment of conviction if there is evidence to sustain such finding, notwithstanding the improvident plea of guilt by the accused. As I see it, a trial court will not even be able to properly arrive at any determination of guilt if the arraignment is, in the first place, defective. This is because **an invalid arraignment impairs the understanding of the accused of the nature and cause of the accusation against him to which his defense strategy depends.** In turn, an impaired

¹⁶ See *People v. Gambao*, supra note 13; *People v. Francisco*, 649 Phil. 729 (2010); *People v. Documento*, 629 Phil. 579 (2010); *People v. Talusan*, 610 Phil. 378 (2009); *People v. Tanyacao*, 477 Phil. 608 (2004); *People v. Alborida*, 412 Phil. 81 (2001).

¹⁷ *People v. Durango*, supra note 15, at 213; and *People v. Estomaca*; supra note 8, at 449-450; emphases supplied.

¹⁸ 423 Phil. 637 (2001).

¹⁹ Id. at 663; emphasis supplied.

²⁰ 375 Phil. 1096 (1999).

²¹ Id. at 1104.

²² Id. at 1104-1105; emphasis supplied.

²³ Supra note 8.

²⁴ Supra note 14; also citing *Binabay v. People*, 147 Phil. 402 (1971).

²⁵ *People v. Estomaca*, supra note 8, at 449-450; emphasis supplied.

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defense effectively plays into the relative strength of the prosecution's evidence since an accused who does not understand the charge against him may very well leave the prosecution's allegations un rebutted or evidence unobjected. The lack of rebuttal and objection consequently plays a role in the trial court's calibration of the evidence, and leads to a judgment of conviction that is tainted. In the end, any finding of guilt beyond reasonable doubt to sustain a conviction will be clouded by the irregularity of the arraignment, begging the question: *had the accused intelligently understood the consequences of his plea, would he then allow the prosecution's allegations to remain un rebutted and evidence unobjected, and consequently alter the trial court's assessment of the case?*

In fact, I add that not only does an invalid arraignment impair the defense, but, in some cases, may likewise affect the prosecution's strategy and vigor in presenting its case. **Hence, in my view, a judgment of acquittal can neither be made.**

The above observation finds bearing in existing jurisprudence. In *People v. Abapo*,²⁶ the Court remanded the case after observing that the prosecution's presentation of evidence was improperly impaired by the accused's improvident plea of guilt. It discerned that the prosecution's evidence was **"lacking in assiduity and was not characterized with the meticulous attention to details that is necessarily expected in a prosecution for a capital offense."**²⁷ Specifically, it found that the prosecution focused on obtaining the frequency and the material dates the crimes were committed, instead of eliciting details material to prove the elements of the crime.

In *People v. Besonia*,²⁸ Court likewise ordered the remand of the case, finding, among others, that "the trial court and the prosecution unduly relied on [the accused-appellant's] plea of guilty and his admissions made during the searching inquiry. **The prosecution did not discharge its obligation as seriously as it would have had there been no plea of guilt on the part of [the accused-appellant].**"²⁹

Overall, whether from the standpoint of the prosecution or the defense, the foregoing considerations show how a miscarriage of justice may result from an improvident plea of guilt. Hence, a remand of the case is in order so that the arraignment may be conducted properly and in turn, for the trial court to render a valid judgment. To reiterate, the absence of a valid arraignment in this case is a fatal defect in the proceedings. This defect is not merely procedural but is substantive in nature as it affects not only the constitutional rights of the accused but, as shown by the foregoing cases,

²⁶ 385 Phil. 1175 (2000).

²⁷ Id. at 1187; emphasis supplied.

²⁸ 466 Phil. 822 (2004).

²⁹ Id. at 843; emphasis supplied.

may equally impair the proper prosecution of crimes which is undeniably imbued with public interest. To this end, I disagree with the *ponencia's* notion that “[w]hile it is true that a judgment of conviction cannot stand on an invalid arraignment, a judgment of acquittal may proceed from such invalid arraignment,” adding that “[t]he invalid arraignment itself is ground for acquittal.”³⁰ This selective treatment clearly defies the substantive nature of an arraignment, the invalidity of which renders null and void the ensuing proceedings in its entirety.

Further, to suppose that an invalid arraignment is a ground for acquittal runs counter to the basic rule on double jeopardy that a first jeopardy may attach only upon a valid arraignment.³¹ As such, an acquittal cannot spring from an invalid arraignment.

In addition, the *ponencia's* statement loses sight of the fact that an acquittal is premised on a determination of non-guilt on the merits, which should not obtain just because of an invalid arraignment. In fact, it does not even warrant dismissal since it is still remediable by the remand of the case for the re-arraignment of the accused, which is my position herein.

Notably, should there be any inordinate delay³² borne from the remand, the ground for dismissal is violation of the accused's right to speedy disposition which is a ground for dismissal tantamount to an acquittal. However, based on the records, this ground was never raised. In this regard, jurisprudence provides that the “[f]ailure to seasonably raise the right to speedy trial precludes the accused from relying thereon as a ground to dismiss the case. He is deemed to have slept on his rights by not asserting the right to speedy disposition at the earliest possible opportunity.”³³

At this juncture, while I do recognize that a doctrinal directive to remand upon an improvident plea of guilt purports a policy of “resetting” the proceedings and hence may promote inexpediency, the underlying considerations are not merely procedural but are substantive in nature and thus, cannot be simply ignored for expediency's sake. The solution to this concern may lie, however, in the Court revisiting the current procedural framework and identify gaps that need to be bridged. In this light, I join the call of Associate Justices Rodil V. Zalameda and Amy C. Lazaro-Javier to codify the proper searching inquiry guidelines and other relevant procedures that trial court judges must follow whenever an accused pleads guilty to a capital offense. In addition, I suggest that the consequences of the failure to comply with these procedures – with respect to the criminal proceedings, and maybe, even as to disciplinary sanctions as to the mishandling judge –

³⁰ *Ponencia*, p. 50.

³¹ See *Tan, Jr. v. Sandiganbayan*, 354 Phil. 463 (1998).


³² The *ponencia* states that “accused-appellant has been incarcerated for more or less eleven (11) years.” See *ponencia*, p. 52.

³³ *Valencia v. Sandiganbayan*, 510 Phil. 70, 88 (2005).

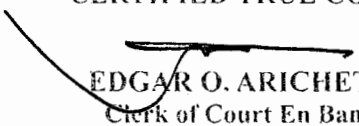
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should be explicitly provided for proper guidance. Further, I propose that the Court look into crafting a procedure to account for findings of improvident guilty pleas at the latter stage of the case but at the same time, preserving the proceedings already conducted. In this regard, the crucial consideration is that the parties are given the opportunity to consider any change in legal strategy upon the accused's proper understanding of the nature and cause of the accusation against him as embodied in a valid plea. In the final analysis, the Court must strive to ensure fairness not only to the State and the accused, but also to the private offended party, whose interest, despite being merely civil in theory, is in reality, a strident call for retributive justice.

All told, I vote to affirm the CA ruling ordering the remand of the case to the trial court with the directive to strictly follow the procedure laid out in Section 3, Rule 116 of the Rules of Criminal Procedure, as well as the pertinent guidelines on searching inquiries as stated in our current jurisprudence. I further suggest that the Court undertake the necessary revision of the Rules of Criminal Procedure as discussed herein.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court