

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. ROGELIO SORIANO, NARCISO MARIGMEN, ALIAS SOSING AND JERSEY, JOHN DOE AND PETER DOE, DEFENDANTS. ROGELIO SORIANO, DEFENDANT-APPELLANT.

G.R. No. L-32244. June 24, 1983

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b9d33bc5fe83/>

AQUINO, J.:

Rogelio Soriano appealed from the decision of the Court of First Instance of Occidental Mindoro, San Jose Branch, finding him and Narciso Marigmen guilty of robbery with rape, sentencing them to reclusion perpetua and ordering them to pay solidarily to Felix Bentibano the sum of ₱375 and to Elma Lachica, the rape victim, an indemnity of ₱500 and the costs. Marigmen did not appeal (Criminal Case No. R-99).

The evidence for the prosecution shows that at around midnight of Sunday, June 15, 1969, in Sitio D-6, Barrio Central, San Jose, Occidental Mindoro, while the spouses Felix Bentibano, Jr. and Elma Lachica were asleep, four persons entered their humble abode. They lived in a hut (kubo or dampa) with an area of around three square meters. Its walls of cogon grass were already in a state of decay. The cottage was about one foot above the ground. A blanket covered its entrance. One could easily peep inside and enter the hut.

The malefactors entered the hut noiselessly by removing the blanket. They themselves had constructed the hut (39 tsn). Felix and Elma transferred to the hut about one month before the incident. They used to reside at Bato-Illi, Batasan, San Jose.

The malefactors carried two flashlights. One of them was armed with a carbine. Another held a flashlight and focused it at the entrance to the hut as his companions entered it. Rogelio Soriano was the first to enter the hut. Elma Lachica knew him because he was a compadre of her sister. He was followed by Narciso Marigmen who carried the carbine and flashlight. Elma and Felix, her husband, knew Marigmen because he used to pass by their hut. Felix, a twenty-five-year-old farmer, was lying on his side, face down. The malefactors tied his hands over his head with buri leaves. One of them pointed the carbine at his throat. They stepped on his prostrate body.

Soriano was the first to rape Elma Lachica, a twenty-nine-year-old housewife. She was wearing a blouse and short pants. Soriano, without unzipping her short pants, forcibly removed them. They were torn in the middle. He held Elma's hands and shoulders, pinned down her thighs and then inserted his penis into her organ. She shouted "aray." She asked for help from her husband. While Soriano was ravishing Elma, Marigmen with his right hand pointed the muzzle of his carbine alternately at Elma's throat and that of her husband who was hogtied beside her. Elma felt that Soriano had consummated the rape because her blouse got wet.

After Soriano had satisfied his lust, Marigmen followed him in raping Elma Lachica. Soriano held the carbine. Two other malefactors, whom Elma could not recognize, took their turns in raping her. She became weak, dizzy, uncomfortable and "physically exhausted." She cried.

The four malefactors, after satisfying their bestial desires, took from the hut the following loot with a total value of P375: (a) one Nivico radio-phonograph, P150; (b) one lady's ring, P25; (c) four Banlon shirts, P100 and (d) four long pants, P100. They left the hut after warning the couple not to report the outrage to the authorities; otherwise, they would be killed.

The spouses, for fear of retaliation, did not complain right away to the police authorities. Instead, they transferred to another place. Felix Bentibano, Jr. said in his statement: "Takot na takot po ako at gayon din ang aking kasama dahilan sa nang bago po nagsi-alis ang apat na lalaking iyon ay halos isaksak sa bibig ko ang dulo ng baril na carbino at kami po ay mahigpit na pinagbantaang babalikan at pagpapatayin kapag kami ay nagsumbong kahit kaninong alagad ng batas at dahilan sa di po ako nakakakuha pa ng malilipatan namin kayat ako po ay nagsawalang kibo muna at ngayon pong kami ay nakalipat na sa Barrio Adela ay nagpunta na kaming magkasama dito." (8-9, Record).

At around three o'clock in the afternoon of June 24, 1969, Pascualita Barawel-Palo, an eighteen-year-old married woman, residing at Sitio Cambarwang, Barrio Adela, San Jose met Soriano. She and her mother, Pacita Malanum, were in the house of their neighbor, Leona Ramos. They were gossiping (nagkukuentuhan). Soriano, whom they knew by face, entered the house. He was looking for his missing carabao.

When Soriano was informed that no one in the house could tell him anything about his carabao, he, without any prodding, revealed that he had committed robbery with rape. He said:

"Noon ngang mga nakaraang gabi may inakyat kaming taga D-6 at kinuha namin ang kanilang radio, singsing at mga damit at ginahasa namin yong babae. Nakatikim din sila ng utin ng Ilocano. Masarap daw ang utin ng Hocano" (Exh. D). He was alluding to the victim, Elma Lachica, who was a Visayan. He was laughing in a mocking manner because he knew that he was talking with Visayan women. He said that the rape victim looked like Lachica's daughter.

That information caused Mrs. Barawel-Palo to recollect the news, which she had heard, about the robbery with rape committed by four persons in the hut of Elma Lachica and Felix Bentibano, Jr. However, for fear of reprisal, Mrs. Palo did not advise the police immediately of what Soriano had carelessly and boastfully told her (Exh. D).

On June 25, 1969 at around nine o'clock in the morning, Bentibano encountered Soriano. The former noticed that Soriano was wearing trousers that had a green patch in the seat thereof. Bentibano recognized them as his own. He asked Soriano why he was wearing his (Bentibano's) pants. Soriano answered: "Do you regard me as a thief?" He made a motion to assault Bentibano with his bolo but the latter was able to disarm Soriano, who thereupon scurried away (p. 9, Record).

On July 2, 1969 Mrs. Palo executed her affidavit recounting Soriano's boastful admission that he participated in the commission of robbery with rape in the cottage of Elma Lachica and Bentibano. The next day, July 3, the said spouses executed their own statements which were sworn to before the Municipal Judge. They pointed to Soriano as one of the malefactors who robbed them and raped Elma.

On the basis of those statements the chief of police filed against Soriano in the municipal court a complaint for robbery with rape dated July 3, 1969.

On July 31, 1969, at about six o'clock in the evening, Patrolman Andres Baldonado, in the company of the chief of police and other policemen, apprehended Marigmen, Rodolfo Fajardo and Juanito Pineda in Sitio Mabuhay, Barrio Central, San Jose for illegal possession of two carbines and a home-made paltic, which the policemen confiscated. Marigmen and his companions were brought to the police headquarters. A few days thereafter, Soriano was apprehended. Marigmen wrote a letter to his wife, asking that a radio-phonograph be delivered to the

police (Exhs. A and B). A Banlon shirt worn by Marigmen was presented in evidence as Exhibit C.

The provincial fiscal filed an information for robbery with multiple rape against Soriano, Marigmen and two unidentified persons. After trial, the lower court rendered the judgment under appeal.

In cases of this nature, where the crime was committed at night and the accused did not execute any confession, the main issue is whether the appellant was identified with certainty by the complaining witnesses.

Appellant Soriano contends that the trial court erred (1) in not acquitting him, (2) in finding that his guilt was established beyond reasonable doubt and (3) in concluding that there was conspiracy. He interposed an alibi. His brief does not contain any statement of facts. His alibi is not even discussed therein.

The thirty-one-year-old appellant, married, an Ilocano farmer and a resident of Quarter No. 2, Sitio Santa Fe, Barrio Central, San Jose, testified that he was not acquainted with Narciso Marigmen. He said that he lived with his wife and mother-in-law. He was a *kaiñginero* engaged in planting eggplants, beans and vegetables which he sold at San Jose and in Barrios San Agustin and Bubog.

He said that at around ten o'clock in the morning of June 14, 1969 he was in Barrio Bubog to borrow money from Felix Acla. He used the borrowed money in buying rice. At eight o'clock in the morning of June 16th, he left Bubog in the company of his wife, mother-in-law and son. They arrived at Santa Fe at around one-thirty in the afternoon, passing the town of San Jose.

He denied that he raped Elma Lachica in the evening of June 15. He disclaimed any participation in the robbery. He was not aware of any reason why the complainants charged him with robbery with rape. He had never met the spouses Felix Bentibano, Jr. and Elma Lachica. He knows Elma's father whose farm adjoins his farm.

He confirmed that Patrolman Beato Punzalan went to his house

on June 19 in connection with his carabao which had been missing for one week. He saw his carabao near Bentibano's house. When he tried to retrieve the animal, Bentibano and his wife boxed him. He did not report the incident to the police because he suffered pains as a consequence of the blows inflicted on his ears. His wife was able to get the carabao from Bentibano.

Linda Roldan, Soriano's eighteen-year-old wife, corroborated his alibi. However, she said that she and her husband and her aunt went to Bubog "to borrow some rice, one cavan" (Soriano testified that he borrowed money, not rice).

Pelagia Saulong, a fifty-two-year-old married woman, a farmer, also corroborated Soriano's alibi. She testified that she is the aunt of Linda, Soriano's wife, but she could not tell Linda's family name.

Policeman Beato Punzalan testified that on June 19, 1969, he met Soriano at Sitio Sorongon in Barrio Central. He was investigating Bentibano's complaint that Soriano's carabao had damaged his (Bentibano's) plants. The carabao was near Lachica's house. It was returned to Soriano because Soriano and Bentibano had concluded an understanding about the case.

After a conscientious appraisal of the evidence, we are of the opinion that Soriano's alibi, which was corroborated by his wife and her aunt, cannot prevail over the unequivocal identification made by the complainants and their witness, Mrs. Palo.

The trial court noted that Bubog, where Soriano claimed to be staying at the time the robbery with rape was committed, is a barrio adjacent to Barrio Central. The scene of the crimes was in Sitio D-6 located at Barrio Central. There was a regular jeepney line between Bubog and Barrio Central. It was possible for Soriano to leave

Barrio Bubog on June 15, 1969, go to Sitio D-6 in Barrio Central, and return to Barrio Bubog to get the alleged palay which he had bought with money borrowed from Felix Acla and, thereafter, repair to his home in Sitio Santa Fe (if it were true that he left that place on June 14).

Although the robbery with rape was perpetrated at midnight, the malefactors were recognized because they used flashlights in entering the hut. While the rape was being committed, the flashlight was directed at the scene and illumined the faces of the malefactors. Elma Lachica in her statement at the preliminary investigation said that she had known Soriano and Marigmen for a long time. She was familiar with their voices. The light from the flashlight used by the rapists enabled her to identify the two accused. The flashlight was used at the commencement of each rape. One person near the door focused the flashlight at the malefactor who was going to rape Elma Lachica. So, she saw the face of each of the four rapists (p. 10, Record).

On the other hand, Bentibano said in his statement:

"8.

T —

Bakit mo naman natiyak na si ROGELIO SORIANO ang isa sa apat na iyon?

S —

Dahilan po sa bago gapusin ako nina Rogelio at saka isang kasama pa niya ay hawak ni Rogelio Soriano ang Carbino al bago nila ako ginapos ay pinahawakan niya iyon sa isang kasama niya na nang abutin ang baril ay nagpaliwanag ng plaislait at nailawan pa po si Rogelio kayat siya ay aking nakilala at kilalang kilala ko po siya.

"12.

T —

Gaano katagal mo nang nakilala itong si ROGELIO SORIANO?

S —

Matagal na rin po. Siya po ay alam kong isang Ilocano din at malimit pang siya ay dumadaan sa lugar ng aming kubo sa bukid." (See p. 8 of the Record.)

As stated in the narration of facts, Elma Lachica and Felix Bentibano, Jr. knew Soriano (who .like Felix is an Ilocano) because Soriano is a compadre of Elma's sister.

The trial court said:

"The narration of Elma Lachica of how she was raped by the four perpetrators (Rogelio Soriano, Narciso Marigmen, John Doe and Peter Doe) was given in a voluntary and natural manner, which at times was halted by her shedding tears, while on the witness stand when answering questions that brought to light her harrowing and unforgettable experience.

"The court observed that the offended woman is a modest, barrio housewife, whose simplicity and sincerity are at once discernible from the way she talks and acts, which are devoid of any artificialities common among some ultra-modern and city-bred women.

"The positive identification of the accused as two of those who committed the robbery with rape herein complained of, raises no doubt that this crime was really committed and the two accused were among the perpetrators thereof."

A feeble attempt was made to establish a connection between the filing of the complaint and the circumstance that there was a controversy between Soriano and Bentibano, Jr. regarding the damage to Bentibano's plants caused by Soriano's carabao. It is difficult to believe that that incident would be sufficient to provoke the Bentibano spouses into taking the trouble of filing the grave charge of robbery with rape against Soriano and Matigmen.

Appellant Soriano's counsel de oficio in his hardly legible brief contends that the crimes committed were the separate ones of rape and theft. He argues that there was no force or violence in taking the personal properties of the spouses and that they did not even witness the taking thereof. He observes that the taking was accomplished after the rape, that conspiracy was not proven and that the articles taken were found only in Marigmen's possession.

That contention is not well-taken. It is evident from the manner in which the crimes were committed that the malefactors were animated with the double intention of raping Elma Lachica and divesting the spouses of their few worldly possessions. The malefactors were armed with a carbine and were provided with two flashlights. When they entered the couple's unpretentious habitation, they immediately sought to weaken the defense by disabling the husband. They rendered him helpless to prevent him from interfering with the rape and with the taking of his goods. Force and intimidation were employed for the purpose of insuring the robbery and the consummation of the rape.

Article 294(2) of the Revised Penal Code does not differentiate "whether the rape was committed before, during or after the robbery." It is enough that robbery accompanied the rape (*People vs. Caisip*, 105 Phil. 1180, 1186). Robbery was not a mere accident or afterthought in this case (See 2 Cuello Calon, *Codigo Penal*, 12th Ed., pp. 804-805). Contrary to appellant's contention, not all the articles taken were found in Marigmen's possession (See Exhs. A and B).

Appellant's counsel points to certain contradictory statements made by Elma Lachica and Bentibano. Those discrepancies involve minor details and do not impair the recognition of the appellant by the victims as one of the four malefactors who committed the rape and the robbery. "The most candid witnesses sometimes make mistakes and fall into apparently confused and inconsistent statements, which, however, should not affect their credibility" (6 Moran's Comments on the Rules of Court, 1970 Ed., p. 138; *People vs. Resayaga*, L-23234, December 26, 1973, 54 SCRA 350).

The trial court properly appreciated dwelling and nocturnity as aggravating circumstances (*People vs. Corpes*, 90 Phil. 558; *People vs. Ortiz and Lopez*, 103 Phil. 944, 949; *People vs. Manases*, 103 Phil. 1140; *People vs. Castillo*, L-3543, December 21, 1950; *People vs. Dayego*, L-2747-8, May 10, 1950; *People vs. De la Cruz*, L-1745, May 23, 1950; *People vs. De Leon*, L-2094, April 30, 1950).

Appellant contends that nocturnity should not be considered aggravating because robbery is a crime against property and flashlights were used. That contention is untenable. Nocturnity may be appreciated in robbery with violence against or intimidation of persons. The malefactors committed the crimes at midnight so that they would not be recognized and so that the darkness would afford them impunity to do whatever they liked. The result was that two of the four malefactors were not recognized by the victims. Only appellant Soriano and Marigmen, whom they had known even before the commission of the crimes, were recognized.

The trial court correctly ruled that band and disguise are not aggravating. There is no evidence that the four malefactors were all armed or resorted to means and measures to conceal their identities during the commission of the crimes.

Inasmuch as the four malefactors unquestionably took advantage of their combined strength to overpower the two

victims to consummate their objective, abuse of superiority may be appreciated (People vs. Macaram, L-8438, August 30, 1957 unpublished; People vs. Carandang, L-31012, August 15, 1973, 52 SCRA 259; People vs. Otto, L-29631, January 31, 1973, 49 SCRA 306).

The trial court's ruling that ignominy is not aggravating is erroneous. Elma Lachica was raped in the presence of her alleged husband who was hogtied and was beside her on the floor. Disgrace or obloquy was added to the natural effects of the rape, making the outrage more humiliating (People vs. Macaram, supra; U.S. vs. Iglesia and Valdez, 21 Phil. 55).

The reparation of P375, which the trial court ordered Soriano and Marigmen to pay to "the offended party," includes the value of the radio in the sum of P150 and the value of one Banlon shirt in the sum of P25. The radio and shirt were recovered (Exh. A) and were presented as Exhibits B and C, respectively. Those articles should be restituted to the offended spouses, Elma Lachica and Felix Bentibano, Jr. An allowance should be made for their diminution in value while in the possession of the accused (Art. 105, Revised Penal Code). But, as there is no proof of such depreciation, no precise ruling can be made on that point. So, their values in 1969, as proven, should not be disturbed.

The indemnity of P500 awarded by the lower court to the rape victim is minuscule considering that she was raped four times and that the prevailing currency is inflated. It should be increased to twelve thousand pesos (People vs. Canete, L-30491, January 21, 1972, 43 SCRA 14, 28; People vs. Amiscus, L-31238, February 27, 1971, 37 SCRA 813).

Robbery with rape is punished with reclusion temporal medium to reclusion perpetua. As there are four aggravating circumstances and no mitigating circumstances, the penalty should be imposed in its maximum period which is reclusion perpetua (Arts. 64[3] and 294[2], Revised Penal Code). (Presidential Decree No. 767, which took effect on August 15, 1975 and which amended Article 294[2] increased the penalty for robbery with qualified rape from reclusion perpetua to death.)

There has always been a controversy in this Court as to the penalty for robbery with qualified rape prior to the amendment. Some think that robbery with rape, a crime against property, should be punished always under Article 294.

Another school of thought believes that robbery with qualified rape should be punished with the death penalty under Article 335

of the Revised Penal Code, as amended. See People vs. Carandang, L-31012, August 15, 1973, 52 SCRA 259 and People vs. Perello, L-33064, January 27, 1982, 111 SCRA 147. For lack of necessary votes, the death penalty cannot be imposed.

WHEREFORE, the trial court's judgment as to Rogelio Soriano is affirmed with the modification that the indemnity to be paid by him to Elma Lachica is raised from P500 to P12,000 and that the radio and Banion shirt (Exhs. B and C) should be returned to Felix Bentibano, Jr. and Efma Lachica. Costs against appellant Soriano.

SO ORDERED.

Fernando, C.J., Makasiar, Concepcion Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, Escolin, Vasquez and Gutierrez, Jr., JJ., concur.

Teehankee, J., in the result.

Relova, J., took no part.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.