

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
TOMAS BUAMA, ET AL., DEFENDANTS. DIOSCORO BODINO AND
ALEJO BODINO, DEFENDANTS AND APPELLANTS.**

G.R. No. L-7254. July 26, 1954

Ponente: REYES, A., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ed85beb795a9/>

REYES, A., J.:

This is an appeal from a judgment of conviction for robbery.

It appears from the evidence that at about 9 o'clock in the evening of May 16, 1950, five men, one of them armed with a pistol and the others with a bolo each, broke into the house of Cecilia Brizuela in barrio Pinagbobong of the municipality of Tabaco, Albay. In the house at the time were Cecilia Brizuela, her children Salome Luciano and Emilio Luciano, her mother Maria Bosero, and a protegee named Venancia Brizuela. After holding up the inmates at gun point and making them kneel in the sala the intruders searched the house for money and firearms, and not finding any took and carried away a bolo, a flashlight and four chickens, of the aggregate value of P16.50. While his companions were ransacking the house, the one who carried a pistol, who turned out to be Tomas Buama, searched the person of Salome Luciano and then dragged her downstairs and raped her, warning her afterwards not to tell any body what had happened on pain of being killed.

But the following morning two policemen were sent out to investigate the raid in Cecilia Brizuela's house as well as other raids reported to have been made in the same locality that same night and in a neighboring barrio the night previous. Going first to the house of Cecilia Brizuela, the policemen were there informed who the raiders were, their names being given by Cecilia and her companions as Tomas Buama, Restituto Boneo, Simplicio Caña, Dioscoro Bodino and Alejo Bodino. Armed with this information, the policemen went to the house of Tomas Buama and there found the pistol and helmet used by him in the raid of the Brizuela home. Then going to the house of Simplicio Caña and Restituto Boneo, who were brothers-in-law, the policemen found the mask used by Boneo, the bolo taken from the Brizuela's and various articles taken from the other houses raided. Confronted with these items of evidence, the three, that is, Tomas Buama, Simplicio Caña and Restituto Boneo., admitted their participation in the crime and later pleaded guilty at the preliminary investigation conducted by the Justice of the peace. In the house of Dioscoro Bodino and Alejo Bodino the policemen found nothing to connect them with the robberies. But we have it from their own brief that they were implicated in the different raids and, in addition to the present case, there were six other cases filed against them for robbery in band, in two of which they were convicted and did not appeal.

At the trial of the present case Alejo Bodino and Dioscoro Bodino denied having had any participation in the crime charged. The first testified with the corroboration of his wife, that he did not leave his house on the night of the robbery. The other testified, without any corroboration, that he passed that night in the house of his father-in-law. They also presented in evidence the extrajudicial confession of their co-accused Restituto Boneo according to which only Tomas Buama and Simplicio Caña were with him that night. And in that connection they

reject the confession of Tomas Buama implicating them in the crime contending that the said confession is not admissible against them.

The trial court found Tomas Buama guilty of robbery with rape, aggravated by nocturnity cuadrilla and use of disguise. But the other accused were only declared guilty of robbery in an inhabited house, with the same aggravating circumstances, and sentenced to an indeterminate period of imprisonment, indemnity of P16.50 and costs. From this sentence, Dioscoro Bodino and Alejo Bodino appealed to the Court of Appeals, but that court has certified the case to us on the ground that in its opinion appellants are guilty as charged and should be sentenced to reclusion perpetua, considering that they and their three co-accused were all armed and one of them committed rape on the occasion of the robbery without any one of them attempting to prevent it.

The case hinges on the identification of the appellants, it being contended that the complaining witnesses, Cecilia Brizuela and her daughter Salome Luciano, could not have recognized the five men who broke into their house because they had their faces covered and four of them had their hats on while one wore helmet. But it appears that the complainants had full opportunity to observe the movements and personal characteristics of the malefactors for they stayed about one hour and there was light in the house. Besides, with the exception of the one wearing a mask, who turned out to be Restituto Boneo, the others had their faces only partly covered with handkerchiefs. Being all of them familiar figures long known to the complainants, their simple disguises were no absolute proof against recognition. That recognition was possible in spite of the disguises, finds confirmation in the fact that three of them confessed their participation in the crime. There is nothing to the insinuation that the robbers were identified only after their arrest, for even before they were apprehended their names had already been given to the policemen by Cecilia Brizuela and her companions in the house. Appellants weak alibi is not enough to destroy the convincing proof of their identity as two of the malefactors who broke into the house of the Brizuelas.

The crime committed is robbery in band with rape for which the two appellants should be held responsible as principals, it appearing that they and their co-accused were acting in concert and though they did not themselves take part in the rape, they were present and did not try to prevent it. (Art. 296 paragraph 2 of the Revised Penal Code.) The claim that the complaint was defective because it was signed by the offended party, is without merit, it being settled that the crime of robbery with rape may be prosecuted de oficio, without the complaint of the offended party. (People vs. Orcullo, 46 Off. Gaz., Supp. 11, p. 238.) With the aggravating circumstances of nocturnity and use of disguise the penalty imposable is reclusion perpetua.

Wherefore, the sentence below, in so far as the present appellants are concerned, is modified in the sense that they are declared guilty of robbery in band with rape and sentenced to life imprisonment, jointly and severally to indemnify the offended party Salome Luciano in the sum of P4,000 and to pay proportionate costs, this in addition to their liability to pay for the stolen articles (P16.50J jointly and severally with their co-accused.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Jugo, Bautista Angelo, Labrador, Concepcion and Reyes, J. B. L., JJ., concur.

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.