

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO VIVAS @ LANDO, ACCUSED-APPELLANT.*G.R. No. 100914. May 06, 1994*

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-100914/>**CRUZ, J.:**

The appellant was one of three men accused of robbery with homicide in the Regional Trial Court of Occidental Mindoro. The other two are still at large. Only he was arrested and subsequently tried and convicted.[1] He now asks for reversal of the judgment on the ground that he was not at all involved in the offense imputed to him.

The trial court found that Rolando Vivas, together with Bobot Manongdo and Jeffrey Picar, attacked the barangay outpost at Bagong Sikat, San Jose, Occidental Mindoro, in the early morning of September 23, 1986, killing, three patrolmen and taking from them two rifles and one revolver.[2]

Barangay captain Reynaldo Sagnip testified that, immediately prior to the incident, he was sitting on a bench at the checkpoint some ten meters away from the outpost while the other members of his patrol team were resting inside. Bobot Manongdo arrived with Jeffrey Picar (both of them also team members) and, without warning, suddenly fired his M-16 rifle at the outpost. Sagnip immediately pulled out his .38 caliber revolver and shot at Manongdo, who returned fire, but neither of them was hit. It was at this moment that Vivas appeared seemingly out of nowhere and succeeded wresting Sagnip's gun from him. Vivas shot at him but missed. Vivas then joined Manongdo and Picar inside the outpost, where several shots were fired in succession. After a while, Vivas, Manongdo and Picar came out and scampered away carrying the three firearms.[3] They left behind the dead bodies of Patrolmen Abelardo Gonzales, Mamerto Canaveral, and Marciano Primero who, as the autopsies later revealed, had all expired from gunshot wounds.[4]

In his defense, Vivas disclaimed any complicity in the attack. He testified that earlier that morning, Manongdo and Picar had passed by his house and invited him to eat "pulutan ng karneng aso" at the barangay outpost. He said he would follow soon. Upon arriving at the outpost, he saw Sagnip shooting at Manongdo, who was at the door of the outpost. Acting on impulse, he lunged for and was able to get Sagnip's pistol. Surprisingly, however, Manongdo pointed his armalite at him and demanded Sagnip's revolver, which he immediately surrendered. Manongdo then ordered him to go with him inside the outpost where Manongdo fired successively at Gonzales and then took the man's rifle. Manongdo told him to go with him and Picar and he obeyed for fear of his life.[5]

The sole issue raised in this appeal is the credibility of the witnesses. On this issue, we place much reliance on the findings of the trial court, absent any clear showing that it acted arbitrarily or without substantial basis.

The reason for this policy has been explained often enough by this Court.[6] The trial court has the opportunity not available to the appellate court of directly observing the witnesses on the stand and determining by their demeanor whether or not they are telling the truth. The badges of falsity are many and subtle: the hesitant pause, the stammered reply, the evasive eyes, the flustered face, the guilty look - these and many other telltale signs may be detected by the trial judge but are not reported in the record. The appellate court, supposing that the court

below took these into account in resolving the factual issues, will accord them heavy if not, indeed, conclusive weight.

In the case before us, we find that Judge Restituto L. Aguilar did not err in sustaining the evidence of the prosecution as against that of the defense. We are not inclined to reject the version of the killing narrated by Sagnip, who was in fact one of the victims of the attack of Vivas and his companions. No improper motive has been shown to prove that Sagnip was perjuring himself. The, accused and the victims were all members of the same patrol team to whom, as barangay captain, he would have accorded equal treatment. We see no reason why he should falsely implicate the appellant against whom, to all appearances, he had no ill feeling.

The pretense that Vivas was coerced into joining Manongdo and Picar is not believable. What is is that he was involved with them at the very start. Vivas himself declared that he pounced on Sagnip when he saw him exchanging shots with Manongdo. This was hardly an impartial impulse. And even on the assumption that he was forced at gunpoint to follow the other two, there is still no reason why he did not escape as soon as he could and return to his barangay and report to the authorities. What he did instead was remain in hiding like his co-accused until he was finally apprehended after four years.[7] This was not the conduct of a person who had committed no crime and was ready to face the law and prove his innocence.

While there is no direct evidence that Vivas actually shot any of the three victims, it has been sufficiently established that there was a plot between him and the other two men who entered the outpost and shot the three patrolmen inside. Vivas himself admitted that he leaped to the defense of Manongdo when Sagnip was firing at his friend and that together he and Manongdo entered the outpost, where successive shots were soon heard. Vivas later came out with Manongdo and Picar, and all three were each carrying the weapons described in detail in the information against Ahem. The concert, of action and unity of purpose of the three in shooting the patrolmen to death and stealing their weapons enmeshed the three accused in a clear conspiracy that held each of them equally liable for their common offense.[8]

We agree with the trial court that the offense was accompanied by treachery because the victims were shot while they were asleep, or without warning, and had no opportunity to defend themselves against the sudden attack.[9] In the crime of robbery with homicide, however, treachery is only a generic aggravating circumstance and does not qualify the killing to murder.[10] There is no complex crime of robbery with murder under the Revised Penal Code.

The dispositive portion of the challenged decision reads as follows:

WHEREFORE, in view of the foregoing considerations, the Court finds the accused ROLANDO VIVAS guilty beyond reasonable doubt of the crime of "Robbery with Homicide" and hereby sentences him to suffer the penalty of reclusion perpetua, with the accessories provided by law; to indemnify the heirs of the deceased Patrolman Abelardo Gonzales, Marciano Primero, Jr. and Mamerto Cañaveral the sum of P30,000.00 to each of them, as well as to return or otherwise pay to the Republic of the Philippines the value of the three (3) guns so stolen at their prevailing prices - all these without subsidiary imprisonment in case of insolvency.

The accused shall, however, be entitled to the full term of his, preventive imprisonment, provided, that he shall have agreed in writing to abide with the disciplinary rules and regulations imposed on convicted prisoners; otherwise, he shall be credited only four-fifth (4/5) of his preventive imprisonment.

With costs against the said accused Rolando Vivas.

SO ORDERED.

The Court notes that the three accused were charged with robbery with multiple homicide. The charge should

have been for robbery with homicide although three persons were killed.[11] Judge Aguilar was correct in convicting Vivas of robbery with homicide only. Let it, be added that in this complex crime, the penalty prescribed in Article 294 (1) of the Revised Penal Code is not affected by the number of killings accompanying the robbery. As we held in *People v. Quinones*:[12]

The Court finds that the accused were incorrectly charged with robbery with multiple homicide and so were also incorrectly sentenced by the trial court. The reason is that there is no crime of robbery with multiple homicide under the Revised Penal Code. The charge should have been for robbery with homicide only regardless of the fact that three persons were killed in the commission of the robbery. In this special complex crime, the number of persons killed is immaterial and does not increase the penalty prescribed in Article 294 of the said Code.

WHEREFORE, the appeal is DISMISSED. The decision of the trial court is AFFIRMED, with the modification that the civil liability for the heirs of each of the three "victims is increased to P50,000.00. Costs against the appellant.

SO ORDERED.

Davide, Jr., Bellosillo, Quiason, and Kapunan, JJ., concur.

[1] Decision, penned by RTC Judge Restituto L. Aguilar; Branch 45, San Jose Occidental Mindoro, May 14, 1991; Rollo, pp. 14-22.

[2] Information, Records, p. 23.

[3] TSN, January 30, 1991, pp. 7-9.

[4] Records, pp. 103, 106 and 107.

[5] TSN, February 14, 1991, pp. 2-7.

[6] *People v. Jalon*, 215 SCRA 680; *People v. Danao*, 215 SCRA 795; *People v. Guibao* 217 SCRA 64; *People v. Cammado*, 217 SCRA 162; *People v. De la Cruz*, 217 SCRA 283.

[7] Several Orders of Arrest were returned unserved because subject persons were no longer residing in the given address, with their whereabouts unknown. Order of Arrest dated October 19, 1990 was only served on accused-appellant on October 24, 1990; Rollo, pp. 24 -31.

[8] TSN, February 14, 1991, pp. 4-7; *People v. Villanueva*, 211 SCRA 403; *People v. Mallari*; 212 SCRA 646; *People v. Rizal*, 215 SCRA 247.

[9] Records, pp. 7-8.

[10] *People v. Mantawar, et al.*, 80 Phil. 817; *People v. Abang*, G.R. No. L-14623, Dec. 29, 1960; *People v. Corpuz*, 110 Phil. 633; *People v. Medina*, 71 Phil. 383; *People v. Rayos*, 100 Phil. 1090.

[11] *People v. Dimaano*, 209 SCRA 819; *People v. Maranion*, 199 SCRA 421; *People v. Nunag*, 196 SCRA 206; *People v. Ampo-an*, 187 SCRA 173; *People v. Repuela*, 183 SCRA 244; *People v. Quiñones*, 183 SCRA 747.

[12] 183 SCRA 747; 753.

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.