

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MELCHOR OLARTE ALIAS "TOLISOK"; ROGER "NANO"; VINEARTA, ACCUSED-APPELLANT.

G.R. No. 101793. December 07, 1993

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-101793/>

CRUZ, J.:

As the husband lay hogtied and their two young children watched in tears and fright, the wife was raped by three men in succession. Then they proceeded to ransack the house and the small store, taking money and various articles of little value. They left with the warning that the couple would be killed if they reported their misadventure to the authorities.

Pedro Norbe and his wife Arlene kept silent for fear of their lives. But three days later, Melchor Olarte was arrested for illegal possession of firearms and the rumored robbery with rape in the Norbes house came up during his investigation. Olarte was taken to the spouses who, after initial hesitation, finally identified him as one of the robber-rapists. Further questioning elicited from him the information that his companions were Roger Vinearta and Felino Bagsik. The three men were eventually charged with the crime of robbery with rape,[1] but only Olarte and Vinearta were tried because Bagsik had disappeared.

The principal witnesses for the prosecution were the Norbe spouses. They narrated in detail the events that transpired at one o'clock in the morning of August 18, 1990, at their house and store at Barangay Alangilan in Bacolod City.

They were awakened that morning by a knocking at their door by someone who wanted to know if he could buy some whisky. He was accompanied by two other men. When told that there was no whisky for sale, they asked for a drink of water. Arlene did not want to let them in but Pedro opened the door to give them the water. He was then also holding a kerosene lamp. The three men announced that they were members of the New People's Army and forced their way into the house. One of them pointed a gun at the couple. Pedro described him later as about 18 years old, 5'2" or 5'3" in height, with curly hair, dark complexion, and a mole below his right eye. This was a correct description of Vinearta. Pedro said he also recognized the second man as Olarte, who was armed with a bolo, because he was one of their regular customers. However, he could not at that time see the third man, who was leaning on the wall outside their house.[2]

Once inside the house, the three men, who had now covered their faces, tied Pedro's arms and legs and pushed him to the ground. As one of them stood guard over Pedro, the two others seized Arlene and at gunpoint ordered her to lie down on the floor and undress. She begged for mercy and said she was three months pregnant but her plea was ignored. As Arlene's two young children watched in terror, Vinearta forced his lust upon their mother. He then exchanged places with the third man who had been training his gun on her and this person took his turn in attacking Arlene. Later, his own lechery sated, he was followed by Olarte, who also inflicted his own outrage on the helpless woman. Pedro knew what was happening to his wife as she was crying for help, but he was unable to

defend her.[3]

After the successive rapes, the three men took some clothes from the measly stock of the store, a lady's wrist watch, and P200.00 in cash, all amounting to P2,755.00.[4] They left with the death threat that kept the couple mute until the police brought Olate to them for identification.

Vinearta was positively identified by Arlene, who clearly saw him when he entered the house. Pedro's description of Vinearta at the trial matched him perfectly although this accused was not in the courtroom at the time. There was no difficulty in recognizing Olate, who was the couple's townmate and regular customer. The Norbe house was illuminated by two kerosene lamps when the robbery and rape took place.[5]

The two accused pleaded alibi and denial. Olate said that in the morning in question, he was drinking tuba in his mother's house, which was about four kilometers from Barangay Alangilan.[6] Vinearta was somewhere farther. He said he was then sleeping in his house in Talisay, which was about eight and a half kilometers away from the scene of the crime.[7]

After assessing the evidence of the parties, Judge Simplicia S. Medina of the Regional Trial Court of Bacolod City convicted both accused and sentenced them as follows:

Premises considered, both accused Melchor Olate alias "Tolisok" and Roger "Nano" Vinearta are hereby sentenced to suffer the penalty of reclusion perpetua and to pay jointly and severally the amount of P2,755.00 value of the things taken and costs.[8]

The appellants now argue in their brief that they should not have been convicted on the basis of the inconclusive and inconsistent testimonies of the Norbe spouses. For his part, the Solicitor General agrees with the conviction of Olate but feels Vinearta had not been sufficiently identified and so should be exonerated.

The Court has gone over the record of this case and is satisfied that both Olate and Vinearta were positively identified as two of the men who robbed and raped in the Norbe house in the early morning of August 18, 1990.

Pedro described Vinearta in detail, having seen his face clearly by the light of the lamp he was holding when he opened the door to these intruders. Arlene affirmed the description from her own clear look at his face when she saw him enter their house. There was no mistaking Olate either because he was a regular customer of the Norbe store and the spouses had known him long as a townmate. His mask even fell off as he was raping Arlene.

It is noteworthy that Pedro and Arlene had no known reason to implicate the two in a false charge. When they pointed to them as the culprits who robbed and polluted their house, they were only relating under oath the incident of which the two men stood accused.

By contrast, the alibis offered by Olate and Vinearta were both unconvincing. They were not even corroborated. In any event, their denials cannot prevail over their positive identification by the Norbe spouses as two of the men who committed the crime of robbery with rape in their house on August 18, 1990.

We are not persuaded by the Solicitor General's argument that Vinearta was implicated by Olate only after the latter had been illegally arrested and tortured by the police.[9] There is no evidence of these irregularities outside of Olate's own unsupported statements. In any event, his testimony served merely to corroborate the Norbes' identification of Vinearta which was by itself sufficient.

Article 294, paragraph 2, of the Revised Penal Code provides:

Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

(1) x x x

(2) The penalty of reclusion temporal in its medium period to reclusion perpetua, when the robbery shall have been accompanied by rape x x x

Provided, however, that when the robbery accompanied with rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death. (As amended by PD No. 767).

This case comes under the proviso because the crime was committed by two or more persons, who were armed with a gun and a bolo. It is regrettable that under Article III, Sec. 19 (1) of the Constitution, which proscribes the death penalty except only when for compelling reasons, Congress prescribes it for certain heinous offenses, the appellants can be sentenced only to reclusion perpetua. This penalty cannot be increased even if the crime was aggravated by craft, nocturnity and dwelling.[10] However, the Court can still require them to pay Arlene Norbe civil indemnity in the amount of P50,000.00 for the rapes committed against her. This was omitted by the trial court. We repair the omission, although the award is a small retribution, indeed, for the atrocities committed upon her.

The Court notes with disgust that Arlene was raped in the presence of her two children, aged 3 and 5 only, who did not have to be exposed to such ugliness. Mercifully, the husband, who was also present, was prevented from seeing the violation of his wife although he could feel and hear what was happening because of her distressed cries. The depravity of the appellants is despicable; even the unthinking beast would have been less insensitive.

WHEREFORE, the appeal is DISMISSED and the judgment dated July 29, 1991, is AFFIRMED, with the modification that the appellants shall also pay, jointly and severally, damages in the amount of P50,000.00 to Arlene Norbe. Costs against the appellants.

SO ORDERED.

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

[1] Rollo, pp. 5-6.

[2] TSN, February 27, 1991, pp. 5-8, 17-22, 36, 49-50; May 13, 1991, pp. 3-6.

[3] TSN, May 13, 1991, pp. 7-20; February 27, 1991, pp. 11-12, 51.

[4] Ibid., pp. 17-21; Records, p. 1.

[5] TSN, May 15, 1991, p. 15.

[6] TSN, July 9, 1991, pp. 46, 64-65.

[7] Ibid., pp. 12-13.

[8] Rollo, p. 20.

[9] Ibid., p. 73.

[10] People v. Napili, 85 Phil. 521; People v. Beringuel, 192 SCRA 561; People v. Mesias, 199 SCRA 20.

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.