

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NORBERTO VILLAGRACIA, ELMER PAGLINAWAN, ALFONSO PASTORAL, NELSON LEDESMA, NIXON LEDESMA, AND WILFREDO V. GAMPA, ACCUSED-APPELL...

G.R. No. 94311. September 14, 1993

Ponente: QUIASON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-94311/>

QUIASON, J.:

This is an appeal from the judgment rendered by the Regional Trial Court, Branch 63, Calauag, Quezon in Criminal Case No. 1518-C, finding Norberto Villagracia, Elmer Paglinawan, Alfonso Pastoral, Nixon Ledesma, Nelson Ledesma, and Wilfredo V. Gampa guilty beyond reasonable doubt of Robbery with Rape and sentencing them to suffer the penalty of reclusion perpetua, to indemnify, jointly and severally, the offended spouses, Cenon Villasanta and Thelma Villasanta in the amount of P14,700.00 and Thelma Villasanta in the amount of P20,000.00, and to pay the costs of the suit (Decision, p. 16; Rollo, p. 40).

In said criminal case, the five accused were charged with Robbery with Rape, committed as follows:

“That on or about the 23rd day of September 1987, at Barangay Pamampangin, Municipality of Lopez, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with short firearms of unknown caliber and a fan knife and forming a band, with intent to gain and with force upon things, by means of force, intimidation and violence and taking advantages of nighttime, conspiring and confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously enter the house of spouses Thelma Villasanta and Cenon Villasanta, and once inside, take, steal and carry away therefrom the following personal properties, to wit:

Cash money-----	P8,000.00
one (1) wristwatch citizen-----	1,200.00
one (1) lady wristwatch-----	1,000.00
two (2) wristwatch (old model)-----	3,000.00
two (2) wedding ring-----	200.00
one (1) pair of earrings-----	1,300.00
T o t a l	14,700.00

with a total value of FOURTEEN THOUSAND SEVEN HUNDRED (P14,700.00) PESOS, Philippine currency, to the damage and prejudice of the said owners in the aforesaid sum; that on the occasion thereof said accused, conspiring and confederating together and mutually helping one another, by means of force, threats violence and intimidation and with lewd design, did then and there willfully, unlawfully and feloniously take turn in having carnal knowledge of said Thelma Villasanta, against the latter's will” (Rollo, pp. 8-9).

Upon arraignment, all the accused pleaded not guilty and trial ensued.

On April 3, 1990 and before the judgment was promulgated, accused Elmer Paglinawan died.

The trial court found that on September 23, 1987, Thelma Villasanta arrived in Lopez, Quezon, from Manila at about 8:00 A.M. Instead of proceeding to her house in Barrio Pamanpangin, she stayed at the poblacion to attend to some business. She returned home at 8:00 P.M., bringing with her raw materials for her basket weaving business. At that time, her husband, Cenon, was sick and resting on the second floor of the house while two basket-weavers, Eliseo Gacelo and Rodrigo Llaneta, were working overtime at the ground floor, which was lighted by a Coleman gas lamp. Shortly after Thelma entered the house, six men, with their faces half-covered by handkerchiefs barged inside. Three of the intruders brandished firearms and the other three carried knives. One poked a gun at her head and another pointed a knife to her neck. The two basket-weavers were told to lie down on the floor and were then hog-tied. One of the accused put off the gas lamp. Two of the accused went upstairs and hog-tied Cenon, after maltreating him. They also divested Cenon of his watch and ransacked the house (Decision, pp. 5-8; Rollo, pp. 29-32).

The accused were able to take P8,000.00 in cash, a pair of earrings, a wristwatch and two rings with a total value of P14,700.00.

When the accused left the house, they dragged Thelma along with them. Once on the street, the accused removed their masks. They brought Thelma to a grassy place, where she was ordered to undress. She was able to run away but was chased and caught by her captors, who again pointed their guns and knives at her. Two of the accused held her hands and two others held her legs. After Nelson Ledesma removed her panty and half-slip, he raped her. The other six followed suit.

In the trial court, appellants interposed their respective alibis and denials. They claimed that they were in their respective houses when the incident happened. They also claimed that they were maltreated by the police authorities and forced to confess their participation in the crime charged. Furthermore, they alleged that they were not apprised of their constitutional rights before their statements were taken.

On the basis of the evidence presented, the trial court convicted the accused of the crime charged. Likewise, the trial court considered the presence of the aggravating circumstances of nighttime and band. In their brief, appellants fault the trial court in finding:

I

“x x x THAT THE ACCUSED-APPELLANTS’ IDENTITIES AS THE PERPETRATORS OF THE CRIME CHARGED WERE ESTABLISHED WITH CERTAINTY.

II

“x x x THE ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF ROBBERY WITH RAPE” (Appellants’ Brief, p. 7).

Appellants now claim that Thelma Villasanta failed to identify them with certainty as the perpetrators of the crime charged. They contend that: (1) it was unnatural on their part to have removed their masks outside the house, when they did not remove them while they were inside the house, where it was pitch black; (2) it was improbable for her to have recognized the appellants because the place where she was brought was dark and covered with bushes and coconut trees; and (3) appellants were not placed in a police line-up but were merely presented by the police investigators to the complainants (Appellants’ Brief, pp. 7-9).

Contrary to their claim, appellants' removing of their masks once they left the house of the Villasantas was a natural behavior. As explained by the trial court:

“x x x The Court is also convinced that when the robbers left the house of the Villasanta (sic) they removed their masks. This the Court finds convincing for indeed, it would appear awkward for the robbers to be still wearing masks while they were walking along the street” (Decision, p. 13; Rollo, p. 37)

Bereft of merit is the contention of the appellants that they were merely presented by the investigators to the complainants. There is no rule requiring that before a suspect can be identified as the culprit, he should first be placed in a police line-up and then pinpointed by the victim. What is important is the positiveness of the victim that the persons charged were the malefactors. Such identification goes to the credibility of the witness which was tested at the trial.

This positive identification of the victim was bolstered when appellants removed their masks while walking on the street, for the place was illuminated by moonlight. In *People v. Gamboa*, 145 SCRA 289 [1986], this Court ruled that the light of the moon is sufficient for a person to identify another. Suffice it to say, “if identification of persons is possible even by the light of the stars, with more reason that one could identify persons by moonlight” (*People v. Pueblos*, 127 SCRA 746 [1984]).

Appellants defense of alibi cannot be given weight in view of the clear identification made by the victim that they were the perpetrators of the crime. Alibi is one of the weakest defenses that can be resorted to for it can easily be fabricated (*People v. Carcedo*, 198 SCRA 503 [1991]).

Appellants also failed to support their claim that they were tortured into admitting the crime. Their allegation, except for Norberto Villagracia, was not supported by any medical certificate. However, the medical certificate submitted by Villagracia cannot be admitted as evidence in the absence of the corroborating testimony of the physician who examined him (*People v. Marcedonio*, 192 SCRA 579 [1991]).

The claim that the police investigators did not provide appellants with a counsel while their statements were taken, is mooted because the trial court disregarded said statements for failure of the police investigators to inform them of their right to counsel. The trial court also disregarded the counter-affidavit of Pastoral because the same was prepared by the police. However, even in the absence of the extrajudicial confessions obtained from the appellants, there is sufficient evidence which points to them as the perpetrators of the crime.

We have repeatedly ruled that factual findings of the lower court, including the assessment of the testimonies of the witnesses, are entitled to great weight on appeal when supported by the evidence (*People v. De Guzman*, 199 SCRA 35 [1991]; *People v. Placido, Jr.*, 199 SCRA 410 [1991]).

We agree with the trial court that the crime committed by the appellants is Robbery with Rape defined and penalized under Article 294 (2) of the Revised Penal Code, which reads:

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

The penalty of reclusion temporal in its medium period to reclusion perpetua, when the robbery shall have been accompanied by rape or intentional mutilation, or if by reason or on occasion of such robbery, any of the physical injuries penalized in subdivision 1 of Article 263 shall have been inflicted; 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).”

The law uses the phrase “when the robbery shall have been accompanied by rape” which means that the offender must have the intent to take the personal property belonging to another with intent to gain, and such intent must precede the rape (Reyes, II Revised Penal Code, p. 612, 1987 ed).

In this case, appellants employed violence against and intimidation of persons when they divested the Villasanta spouses of cash and other valuables. Three of the appellants were armed with short firearms and the other three carried fan knives.

That appellants conspired to commit the detestable acts can be inferred from their behaviors, which revealed their common purpose and their unity in its execution (*Siton v. Court of Appeals*, 204 SCRA 473 [1991]).

However, the trial court erred in finding the presence of the aggravating circumstance of band. The circumstance that the crime was committed with the use of a deadly weapon or by two or more persons was already taken into account when the law imposed the penalty of reclusion perpetua to death for such offense.

An appeal in a criminal case opens the whole case for review and this includes the review of the penalty and indemnity (*People v. Godines*, 196 SCRA 765 [1991]). Every circumstance in favor of the accused should be considered (*Sacay v. Sandiganbayan*, 142 SCRA 593 [1986]).

In this case, the trial court failed to consider the age of appellant Nixon Ledesma when the crime was committed. At the time he testified on May 17, 1989, he stated that he was only 15 years old (TSN, May 17, 1989, p. 31). No contradictory evidence was presented by the prosecution. So, when the crime was committed on September 23, 1987, or more than a year before he was presented as a witness, Nixon Ledesma was less than 15 years old.

In *People v. Lugto*, 190 SCRA 754 [1990], we held that the accused has the burden of proof that he was a minor at the time of the commission of the crime. However, in *People v. Tismo*, 204 SCRA 535 [1991], we upheld appellants claim that he was 17 years old at the time the crime was committed even without any proof to corroborate his testimony. Considering that the prosecution failed to present contradictory evidence, we applied to appellant therein the privileged mitigating circumstance of minority under the second paragraph of Article 13 of the Revised Penal Code.

Lugto appears to be an aberration from the long line of decisions antedating it. From *U.S. v. Bergantino*, 3 Phil. 118 [1903] to *People v. Ebor*, 141 SCRA 282 [1963], we have consistently ruled that, although the accused did not offer any evidence to support his claim of minority, this fact will remain as such, until disproved by the prosecution (See also *U.S. v. Barbicho*, 13 Phil. 616 [1909]; *U.S. v. Agadas*, 36 Phil. 246 [1917]; *People v. Ebor*, 141 SCRA 282 [1968]; *People v. Bernalde*, 139 SCRA 426 [1985]).

We, therefore, rule that in view of his minority, appellant Nixon Ledesma is entitled to a two-degree reduction of his penalty as provided for in Article 68(1) of the Revised Penal Code.

Inasmuch as Nixon Ledesma is now more than nineteen years old, he is no longer entitled to a suspended sentence under Article 192 of the Child and Youth Welfare Code, (P. D. 603, as amended by P. D. No. 1179 and P.D. No. 1210).

The penalty for Robbery with Rape under Article 294(2) of the Revised Penal Code, is reclusion perpetua to death. However, the 1987 Constitution, proscribed the imposition of the death penalty, so the trial court was correct in imposing the penalty of reclusion perpetua to the appellants, other than appellant Ledesma.

With regard to Nixon Ledesma, the reduction of his penalty by two degrees should be counted from the penalty provided by law for the offense, which is reclusion perpetua to death. The penalty next lower to the said penalty imposed by law is reclusion temporal and the penalty two degrees lower thereto is prision mayor (*People v. Espejo*, 36 SCRA 400 [1970]; *People v. Jose*, 71 SCRA 273 [1976]; Padilla, *Criminal Law*, Book I, 1988 ed., p. 89).

Considering the presence of the aggravating circumstance of nighttime, the penalty should be in its maximum

period, which is within the range of ten years and one day to twelve years. Applying the Indeterminate Sentence Law, we further reduce the penalty by one more degree, which is prision correccional, and that is within the range of six months and one day to six years.

The records show that Elmer Paglinawan died on April 3, 1990 while under detention. The fact of his death was reported by the provincial warden to the trial court, which should have dismissed the case against said accused. Under Article 89(1) of the Revised Penal Code, the criminal liability of an offender is totally extinguished by his death as to the personal penalties; while the pecuniary liability therefor is extinguished when the offender dies before final judgment.

Taking into account the nature of the crime and the fact that she was raped by the six accused, causing her mental anguish, moral shock, besmirched reputation and social humiliation, the indemnity, in the concept of moral damages, is increased to P50,000.00 (*People v. Grefiel*, 215 SCRA 596 [1992]).

WHEREFORE, the decision appealed from is AFFIRMED with the MODIFICATION that: (1) Nixon Ledesma is sentenced to an indeterminate penalty of six (6) years, of prision correccional, as minimum, to ten (10) years and one (1) day of prision mayor, as maximum; (2) in view of Elmer Paglinawan's death, the case against him is DISMISSED; and (3) the award for damages to Thelma Villasanta is increased to P50,000.00.

SO ORDERED.

Cruz, (Chairman), Griño-Aquino, Davide, Jr., and Bellosillo, 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.