

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODOLFO ASPILI, ERNESTO MAGBANUA, EDUARDO MENDOZA, RODOLFO SALES, ROBERT AGUIRRE AND PACIFICO REBUTIDO, ACCUSED-APPELLANTS.

G.R. Nos. 89418-19. November 21, 1990

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The appellants seek a reversal of the decision of the Regional Trial Court (RTC) of Palawan, 4th Judicial Region, Branch 48, finding them guilty of the crime of rape with homicide, with the aggravating circumstances of robbery in band, taking advantage of nighttime, recidivism, abuse of superior strength and craft.

The facts for the prosecution are summarized by the Solicitor General, as follows:

"On December 28, 1969, the M/L Elsa left Puerto Princesa City for Dumarán, Palawan. On board were Catalino Nadayao, the patron of the vessel; Pepito Severino and two other crew members; and thirteen (13) passengers among whom were Narcisa Batayola, Daisy Gonzales, Josie Gonzales, Yolanda Argue, Wenifredo Magallanes, a certain Bunag and several children ranging from two (2) to nine (9) years of age. All in all, 17 persons were on board M/L Elsa with some cargoes consisting of liquor like tanduay, beer, coke, etc. The vessel left Puerto Princesa at 3:00 o'clock in the morning, navigating towards the lighthouse but due to big waves and strong winds, the launch was forced to seek shelter at Balon, Sta. Lucia, Puerto Princesa City, arriving thereat about 6 to 7:00 o'clock in the morning where they were stranded because of the bad weather and the damaged rudder of the launch. (TSN, 2-18-70, pp. 169-176).

While at the aforementioned place, near the site of the Sta. Lucia Penal Colony, in the afternoon between one and three o'clock, two persons went aboard the M/L Elsa. They were identified by Josie Gonzales as Pacifico Rebutido and Rodolfo Aspili, and after Pepito Severino handed to them the liquor they left the launch (TSN, 8-26-70, pp. 437-442).

It was later established that said two accused together with the other four, namely: Ernesto Magbanua, Rodolfo Sales, Roberto Aguirre and Eduardo Mendoza, all convicts - colonists of Sta. Lucia Penal Colony, had been drinking liquor (tanduay) since the morning of December 28, 1969 even as they hatched the plan to escape from the Penal Colony with the use of M/L Elsa. The buying of the tanduay served also the purpose of acquainting the herein accused that the crew and passengers of M/L Elsa were innocent, peaceful and unarmed (TSN, 11-26-40, pp. 307-312).

Between 7 and 8 o'clock in the evening of the same day, the six accused carried out their agreed plan to escape and, fully armed with pistols and bolos, they boarded the launch bringing with them chicken and dried fish. Upon boarding the launch, they placed themselves in strategic positions. Magbanua talked to the patron of the launch who ordered the engine operator, Pepito Severino, to fetch four bottles of tanduay. While in the act of handing the tanduay to Magbanua, the latter suddenly thrust his bolo at Severino's abdomen, at the same time pointing a pistol at him shouting 'walang kilos' (nobody moves). This prompted Severino to jump

immediately into the sea, after seeing also the rest of the accused draw their bolos. Witnessing all these hostile acts and having evaded a stab by Rodolfo Sales who nevertheless chased him, Catalino Nadayao was constrained to jump overboard. Some passengers and the rest of the crew who were frightened by the shouting of Magbanua and the ensuing commotion likewise jumped into the sea (TSN 2-20-70, pp. 183-193; 3-17-70, pp. 196-197). Among the passengers who jumped overboard were Daisy Gonzales and Yolanda Arque.

Only five persons were left in the launch who did not jump overboard. Josie Gonzales tried to jump overboard but Ernesto Magbanua, one of the accused, prevented her by holding both arms. Magbanua pulled and dragged her. Josie struggled to free herself but to no avail. Magbanua succeeded in dragging her over the cargoes where he pinned her down. While in that lying position he forcibly raped her for about five to ten minutes. At that time, Magbanua was pointing a gun at Josie's head. After Magbanua was through, Rodolfo Sales approached her, took off his pants and laid on top of her for about 3 to 5 minutes. At the time Sales was 'raping Josie, Magbanua was still holding her and pointing a gun at her. After Sales, Pacifico Rebutido approached her and likewise raped her. Josie tried to evade but she was already weak and only felt pain (TSN, 8-26-70, pp. 458-463; 8-27-90, pp. 1-23).

On the other hand, Narcisa Batayola likewise attempted to jump but Magbanua also held her at the back portion of her dress and told her to return to the place where she and the other children were originally hiding. She saw the accused ransacking the cargoes and taking the contents thereof. Moments later, Roberto Aguirre then with a pistol held Narcisa on the shoulders while Eduardo Mendoza held her legs and wrestled her down. Aguirre had sexual intercourse with her followed by Mendoza. Thereafter, Rodolfo Aspili brought her out toward a sawali and right there and then made her lay down in a slanting position. When Aspili was having sexual intercourse with her, nobody was holding her but she could no longer resist as she was already exhausted and weak (TSN, 11-16-70, pp. 147-167).

Subsequently, the six accused left the launch and boarded their banca. Thereafter, Josie and Narcisa together with the children jumped into the water and swam to the bakawan to hide. They were rescued by the 'Baracuda Launch.' In the process, the dead bodies of Daisy Gonzales and Yolanda Argue were found.

Necropsy examination on the cadavers of Daisy and Yolanda showed that both died of suffocation by drowning as blood was coming out from their nose, mouth, and opening of both ears due to rupture of tympanic membrane (TSN, 2-17-70, pp. 109-124).

Dr. Dueñas, the examining physician, likewise found that Josie Gonzales and Narcisa Batayola both had undergone sexual penetration recently.

Subsequently, both Josie Gonzales and Narcisa Batayola filed separate complaints charging the herein six accused with the crimes of Rape with Homicide and Robbery in Band." (Brief for the plaintiff-appellee, pp. 2-8, Rollo, p. 334)

On the basis of the above-mentioned alleged acts committed by the accused, the following criminal cases were filed:

1. Criminal Case No. 3

for

Rape with Homicide and with Robbery in Band

COMPLAINT

"The undersigned complainants, after having been duly sworn to oath in accordance with law, accuse RODOLFO ASPILI, ERNESTO MAGBANUA, EDUARDO MENDOZA, RODOLFO SALES, ROBERTO AGUIRRE and PACIFICO REBUTIDO, of the crime of RAPE WITH HOMICIDE AND WITH ROBBERY

IN BAND, committed as follows:

“That on or about the 28th day of December, 1969, in Sitio Balon, Sta. Lucia Sub-Colony, Municipality of Puerto Princesa, Province of Palawan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who are all serving sentence by virtue of a final judgment in the Iwahig Penal Colony, Puerto Princesa, Palawan, conspiring and confederating together and helping one another, forcibly boarded the motor launch named 'M/L ELSA' which was then at anchor seeking shelter in the vicinity due to bad weather and while on board the said vessel the accused Ernesto Magbanua, Rodolfo Sales, and Pacifico Rebutido, did then and there wilfully, unlawfully and feloniously and with deliberate intent and lewd designs and by means of force, violence and intimidations using guns and boloes for the purpose, had sexual intercourse one after the other with the herein complainant JOSIE GONZALES, a minor 13 years of age, against her will, she being one of the 17 passengers aboard the said vessel while the rest of the accused were either having carnal knowledge with another victim NARCISA BATAYOLA, likewise a minor 15 years of age, by means of force and intimidation and against her will; while the others were ransacking the baggages of the passengers and on the occasion of such acts of the accused, panic took place aboard the said vessel thus forcing the other passengers to jump overboard for fear of bodily harm, and as a consequence thereof, DAISY GONZALES age 15, and YOLANDA ARQUE, age 9, both passengers of the said vessel were drowned; and further on the occasion thereof, all the accused took and carried away, unlawfully and feloniously and against the will of the owners thereof, cash amount of money, personal belongings and cargoes aboard the vessel amounting to no less than TWO THOUSAND (P2,000.00) PESOS, Philippine Currency.”

CONTRARY TO LAW and with the aggravating circumstances of nighttime, by an armed band, in an uninhabited place, recidivism and or reiteration, with evident premeditation, superior strength and with the use of craft, fraud or disguise, and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act No. 4111 in relation to Article 160 of the same Code.”

SGD. PABLO GONZALES SGD.JOSIE GONZALES

Father-Complainant Complainant

(Rollo, pp. 15-16)

2. Criminal Case No. 4

for

Rape with Homicide and with Robbery in Band

COMPLAINT

"That on or about the 28th day of December, 1969, in sitio Balon, Sta. Lucia Sub-Colony, Municipality of Puerto Princesa, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused who are all serving sentence by virtue of a final judgment in the Iwahig Penal Colony, Puerto Prinsesa, Palawan, conspiring, confederating together and helping one another, forcibly boarded the motor launch named 'M/L ELSA' which was then at anchor seeking shelter in the vicinity due to bad weather and while on board the said vessel, the accused Roberto Aguirre, Eduardo Mendoza and Rodolfo Aspili, did then and there wilfully, unlawfully and feloniously and with deliberate intent and lewd designs and by means of force, violence and intimidation, using guns and boloes for the purpose had sexual intercourse, one after the other, with herein complainant, Narcisa Batayola, a minor 15 years of age, against her will, she being one of the 17 passengers aboard the same vessel while the rest of the accused were either having carnal knowledge with another victim, Josie Gonzales, likewise a minor 13 years of age, by means of force and intimidation and against her will; while the others were ransacking the baggages of the passengers and on the occasion of such

acts of the accused, panic took place aboard the said vessel, thus forcing the other passengers to jump overboard for fear of bodily harm, and as a consequence thereof, Daisy Gonzales age 15 and Yolanda Arque, age 9, both passengers of the said vessel were drowned; and further on the occasion thereof, all the accused took and carried away unlawfully and feloniously and against the will of the owners thereof, cash amount of money, personal belongings and cargoes of the vessel amounting to no less than P2,000.00, Philippine Currency.

"Contrary to law and with the aggravating circumstances of night time, by an armed band in an uninhabited place, recidivism and/or reiteration, with evident premeditation, superior strength and with the use of craft, fraud or disguise, and penalized under Art. 335 of the Revised Penal Code, as amended by R.A. No. 4111 in relation to Art. 160 of the same Code.

Puerto Princesa, Palawan, Philippines, January 7, 1970.

(SGD.) CRISTITO ARQUE (SGD.) NARCISA BATAYOLA Y ARQUE

Guardian-Uncle-Complainant Complainant"

(Rollo, pp. 179-180)

The facts for the defense are summarized by their counsel as follows:

"The true facts of the cases are those testified to by Ernesto Magbanua, Eduardo Mendoza, Roberto Aguirre, Rodolfo Sales and Manolo Espino stated briefly hereunder as follows:

At about 9:00 o'clock in the morning of December 28, 1969, Ernesto Magbanua and Roberto Aguirre left their nipa hut at Santa Lucia Penal Colony and went to the Prison Brigade of the said colony to get their dirty clothes. At the brigade they met three (3) private persons, passengers or crews of Motor Launch 'Elsa'. They were eating 'Camote Cassava' with the Capataz of the colony on duty, a certain person called Rudy.

From the brigade, Magbanua and Aguirre proceeded to the hut of Pacifico Rebutido. There they saw Pacifico Rebutido, Rodolfo Aspili, Rodolfo Sales and Eduardo Mendoza drinking tanduay which were brought to Rebutido's hut by the three (3) private persons from the Motor Launch 'Elsa'.

At about 6:00 o'clock in the afternoon of the same date, Ernesto Magbanua and his companions returned to the colony brigade for the usual daily checking and counting of prisoners. After the checking-up, the group returned to the nipa hut of Pacifico Rebutido and there planned to escape from the Sta. Lucia Penal Colony situated in Puerto Princesa, Palawan. They agreed to hire the Motor Launch 'Elsa' anchored about ten (10) arms length from the wharf of Sta. Lucia Penal Colony in Balon, Puerto Princesa, Palawan with money, chickens and dried fish.

At about 7:00 o'clock in the evening of that date the group, defendants-appellants herein, went to the Motor Launch 'Elsa' using the banca of the colony and bringing with them money, chickens and dried fish. Ernesto Magbanua boarded the launch ahead of the rest, talked to the patron of the launch to bring them to liberty and offered money, chickens and dried fish for their fares. His companions likewise boarded the motor launch, Rebutido being the last to board the same at the time when the patron of the launch was still thinking and considering the offer of Magbanua. But when Rebutido reached the deck of the launch, he stepped on a loose board and fell inside the engine room. The impact of his fall was so loud that the patron jumped overboard into the sea shouting to his crews and passengers to likewise jump into the sea. Only two women, a man and small children remained in the launch. Magbanua told the remaining persons on board the launch not to jump overboard because they did not have bad intentions.

Magbanua and his companions then searched for those who jumped into the sea for anyone who may not know how to swim in order to save him. And they found a small boy about nine (9) years of age struggling to swim.

They saved him by using a pole and pulling him towards the launch. When asked why he jumped overboard, the boy said that he jumped because he heard the Captain of the launch shouting to them to jump into the sea.

When the herein appellants found no more persons on the sea around the launch, Rodolfo Aspili and Eduardo Mendoza went down to the engine room with one male passenger of the launch and tried to start the engine. It was at that moment when Magbanua who remained on the deck saw Josie Gonzales at the prow of the launch. He asked her to accommodate him for a sexual intercourse, but Josie pointed him instead to Narcisa Batayola saying that Batayola is the one having experience on the matter. When told he (Magbanua) did not like Batayola, Josie agreed to a sexual intercourse if Magbanua will not harm her. She undressed herself when told to undress. Then Magbanua opened the zipper of his pants and let Josie hold his penis. While Josie was holding his penis, Magbanua made her lie down. He inserted his penis inside the vagina of Josie who complained of pains. It took Magbanua about five (5) minutes to insert only two inches of his penis inside the vagina of Josie Gonzales. At that same moment, Rodolfo Sales and Pacifico Rebutido pulled Magbanua up from Josie Gonzales reminding Magbanua that their agreement was only to escape and what he was doing to Josie Gonzales was not part of their agreement.

At about the same time that Magbanua was having sexual intercourse with Josie Gonzales, Roberto Aguirre was also having sexual intercourse with Narcisa Batayola. Before the intercourse, Aguirre saw Batayola about to jump into the sea. He prevented her from jumping overboard by holding her. Then he went around the deck of the launch to see if there were still persons swimming on the water, leaving Batayola at the prow of the launch. Seeing none, he returned to Batayola and asked her to have sexual intercourse with him. At first Batayola refused. But later she undressed herself when told to undress. Aguirre made her lie down and he inserted his penis inside the vagina of Narcisa Batayola without any difficulty. He made two successive sexual intercourse with Narcisa Batayola, after which they both dressed up. They were in that situation when Rodolfo Sales and Pacifico Rebutido arrived, pulled Aguirre away and they boarded their banca because they saw someone flashlighting the premises at the shore. Magbanua also called Aspili and Eduardo Mendoza at the engine room and they likewise boarded their banca and proceeded to the mangrove swamp to escape. On the way, they noticed that Aspili was left behind." (Appellant's Brief, pp. 3-6)

The two cases were consolidated and, after hearing, the lower court rendered judgment finding the accused guilty of the crime of rape with homicide. The dispositive portion of the decision is set forth below:

"WHEREFORE, haloed by the illuminating light of all foregoing facts, laws, jurisprudence and arguments, this Court finds all the herein accused, namely: Rodolfo Aspili, Ernesto Magbanua, Eduardo Mendoza, Jr., Rodolfo Sales, Roberto Aguirre and Pacifico Rebutido guilty of the crimes of Rape with Homicide, with the aggravating circumstances of Robbery in Band, taking advantage of nighttime, recidivism, abuse of superior strength and craft, in the above-entitled Criminal Case No. 3, beyond reasonable doubt, and sentences all of them to Reclusion Perpetua, and all, likewise, guilty of the same but separate crimes with all the same aforementioned aggravating circumstances, in the above-entitled Criminal Case No. 4, beyond reasonable doubt and imposes upon all of them, another separate penalty of Reclusion Perpetua, both penalties to be served successively, with all its accessory penalties too in both cases, further, all same six (6) herein accused are sentenced and ordered to pay actual damages jointly and solidarily as follows:

1. P265.00 - to Josie Gonzales;
 2. 24.00 - to Narcisa Batayola;
 3. 36.00 - to Pepito Severino and
 4. P1,675.00 - to Catalino Nadayao, for and the other passengers, named by him to have suffered losses, in an amount corresponding to each, respectively,
- and furthermore, the same six (6) aforementioned accused are sentenced and ordered to pay, jointly and solidarily,

moral damages, in the amount of P25,000.00 to each of Josie Gonzales and Narcisa Batayola, their heirs and assigns respectively, as moral damages, and ultimately to indemnify in the same manner, the parents, their heirs and assigns of deceased Daisy Gonzales and Yolando Arque, the amount of P30,000.00 for each and every death of the said two (2) deceased, without subsidiary imprisonment in case of insolvency in all the aforesaid civil liabilities. It is further directed that an alias warrant of arrest be issued against Rodolfo Sales and Pacifico Rebutido and not to be returned until they were in the custody of the law." (Rollo, pp. 290-291)

We agree with the trial court that the prosecution correctly presented the facts of the case.

The appellants raise the following assignments of errors:

I

"THE TRIAL COURT ERRED IN HOLDING THAT THE CRIMES COMMITTED BY THE DEFENDANTS-APPELLANTS HEREIN ARE RAPE WITH HOMICIDE WITH THE AGGRAVATING CIRCUMSTANCES OF ROBBERY IN BAND, NIGHTTIME, SUPERIOR STRENGTH, RECIDIVISM, AND CRAFT.

II

THE TRIAL COURT ERRED IN HOLDING THAT THE DEFENDANTS-APPELLANTS HEREIN CONSPIRED TO COMMIT THE OFFENSES OF RAPE WITH HOMICIDE AND CONVICTING ALL OF THEM OF THE SAID CRIMES." (Rollo, pp. 326-327)

The Court finds, at the outset, that the trial judge erred in designating the offense committed by the appellants as rape with homicide aggravated by robbery in band. For one, neither in law nor in jurisprudence is there an aggravating circumstance as robbery in band. More importantly, the evidence shows that what was committed is the special complex crime of robbery with homicide aggravated by rape.

The records disclose that the appellants took control of the vessel M/L Elsa by threatening the crew and passengers with their boloes and pistols. (TSN, pp. 452-459, August 26, 1970; pp. 137-148, November 16, 1970) Narcisa Batayola, a prosecution witness, testified that after the commotion that ensued when appellants wielded their weapons, some of the appellants immediately started ransacking the cargoes and taking the contents thereof. (TSN, p. 148, November 16, 1970) These acts of the appellants therefore manifest an unlawful intent to gain, through violence and intimidation of persons, by taking the vessel and personal property of the crew and passengers, which comprises the crime of robbery.

The overwhelming evidence reveals that the original design of the malefactors was to commit robbery in order to facilitate their escape from the penal colony. Their original intent did not comprehend the commission of rape. Hence, the crime of rape cannot be regarded as the principal offense. In this case, since it attended the commission of robbery with homicide, the rape is deemed to aggravate the crime but damages or indemnification for the victim may be awarded. (See *People v. Bacsá*, 104 Phil. 136 [1958]; *People v. Tapales*, 93 SCRA 134 [1979]). Instead of ignominy, it is the rape itself that aggravates the crime (*People v. Mongado*, 28 SCRA 642 [1969]).

With respect to the deaths of Daisy Gonzales and Yolanda Argue, the appellants are clearly liable therefor since, as held by this Court in *People v. Mangulabnan*, (99 Phil. 992 [1956]) it is immaterial that the death of a person supervened by mere accident, provided that the homicide is produced by reason or on occasion of the robbery.

Since rape and homicide co-exist in the commission of robbery, the offense committed by the appellants is the special complex crime of robbery with homicide, aggravated by rape, punishable under Paragraph 1 of Article 294 of the Revised Penal Code (RPC). It does not matter if the technical name assigned to the offense is rape with

homicide and with robbery in band, for the real nature of the crime charged is determined not by the title of the complaint, nor by the specification of the provision of the law alleged to have been violated, but by the facts recited in the complaint or information, (See *People v. Oliviera*, 67 Phil. 427 [1939]). As the acts constituting robbery with homicide were clearly set forth in the complaint and proven during trial, then the appellants may be held liable for such crime, regardless of the erroneous designation of the offense.

With the foregoing pronouncements, the Court no longer deems it necessary to deal with the appellants' argument in their first assignment of error that, assuming *arguendo* that they are guilty of committing rape, the crimes of rape and homicide should be viewed as separate and distinct offenses. We have already ruled that the crime committed is the special complex crime of robbery with homicide, the rape being considered merely as an aggravating circumstance.

We find no merit in the appellants' contention that the lower court erred in considering recidivism as an aggravating circumstance. All the appellants are recidivists. They were serving sentence at the Sta. Lucia Penal Colony by virtue of a final judgment of conviction when they committed the above-mentioned offenses. Rodolfo Aspili, Ernesto Magbanua, Eduardo Mendoza and Pacifico Rebutido have previously been convicted of the crimes of frustrated homicide, serious physical injuries, theft, and murder and trespass to dwelling, respectively. Both Rodolfo Sales and Roberto Aguirre have previously been convicted of robbery in band.

We likewise uphold the trial court's finding that the crime was aggravated because it was committed by a band. All the six appellants were armed when they boarded the vessel and perpetrated their dastardly acts. There is also abuse of superior strength, since most of the victims were women and children ranging from 2 to 9 years old.

However, the aggravating circumstances of nocturnity and craft should not have been considered by the lower court. There was no showing that the appellants purposely sought the cover of night when they committed the special complex crime of robbery with homicide. Neither did the appellants employ craft, since they had already boarded the vessel when they pretended to buy Tanduay Rum in exchange for the dried fish and chicken they were carrying. Even without such pretense, they could nonetheless have carried out their unlawful scheme.

With respect to the second assignment of error, the appellants' contention that there was no conspiracy in the commission of rape becomes immaterial in view of the fact that all of them directly participated in its commission. Appellants Magbanua, Sales and Rebutido took turns in raping Josie Gonzales, while appellants Aguirre, Mendoza and Aspili ravished Narcisa Batayola. The Court accords more weight and credence to the testimonies of complainants Gonzales and Batayola. These two girls, 13 and 15 years old respectively, would not subject themselves to the rigors of a public trial if they were not motivated by an honest desire to punish their assailants. Moreover, their narrations were corroborated by the testimony of Dr. Juanito Duenas who physically examined Gonzales and Batayola and found that both indeed had just undergone sexual penetration.

The interlocking extrajudicial confessions executed by the appellants are admissible even if they were not informed of their right to counsel. These confessions were all taken in January 1970, long before the 1973 Constitution took effect. Article III Section 20 of the 1973 Constitution, for the first time, concretized the present right of persons under custodial investigation to counsel, how to be informed of such right and the effect of non-compliance. The requirements and restrictions surrounding this constitutional guarantee, however, have no retroactive effect and do not apply to confessions taken before January 17, 1973, the date of effectivity of the 1973 Constitution, (See *Magtoto v. Manguera*, 63 SCRA 4 [1975])

At any rate, even without considering these extrajudicial confessions, the Court is convinced that the guilt of appellants has been incontrovertibly established beyond reasonable doubt by the prosecution.

The Court, however, finds that the trial judge erred in imposing upon the appellants two separate penalties of reclusion perpetua, both penalties to be served successively. The basis for this imposition by the lower court is its finding that the appellants are guilty of two crimes of rape with homicide, one for the rape of Josie Gonzales and the other for the rape of Narcisa Batayola. We have already pronounced, though, that the rape committed is merely an aggravating circumstance. Since the appellants are found guilty of the special complex crime of robbery with homicide aggravated by rape, recidivism, in band and abuse of superior strength, then, applying Article 294, paragraph 1 of the Revised Penal Code, only one penalty of reclusion perpetua should have been imposed.

In passing, it may be mentioned that the crimes committed by appellants are now denominated as piracy in Philippine waters, punishable under Presidential Decree No. 532. We find it unnecessary to retroactively apply the provisions thereof in favor of the appellants because the acts committed by them are likewise punishable therein by reclusion perpetua.

Considering the perversity accompanying the crime, the heinous nature not only of the offense but its manner of commission, and the refusal of the accused to learn from their earlier convictions, the Court strongly feels that the sentences herein imposed must be fully served. Any official who goes over any applications for pardon or parole is urged to read the records of the case before acting on the applications.

WHEREFORE, the appealed decision in Criminal Cases Nos. 3 and 4 is AFFIRMED but MODIFIED. The appellants are found guilty of the special complex crime of robbery with homicide with the aggravating circumstances of rape, recidivism, in band and abuse of superior strength and are hereby sentenced to suffer the penalty of reclusion perpetua. The award of actual damages is hereby affirmed. The awards representing indemnity for the deaths are increased to P50,000.00 for each victim while the moral damages for the rapes are increased to P30,000.00 for each victim.

SO ORDERED.

Fernan, C.J., (Chairman), and Bidin, JJ., concur.
Feliciano, J., on leave.

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