

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AMADO DANIEL ALIAS "AMADO ATO", ACCUSED-APPELLANT.

G.R. No. L-40330. November 20, 1978

Ponente: MUÑOZ PALMA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c25bfa951c7a/>

MUÑOZ PALMA, J.:

This case originated from the Court of First Instance of Baguio City by virtue of a complaint filed by 14-year old Margarita Paleng accusing Amado Daniel alias "Amado Ato" of rape alleged to have been committed as follows:

"That on or about the 20th day of September, 1965, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, armed with a sharp instrument and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the undersigned complainant, against her will, and in her own room situated at No. 25 Interior, Pinsao, Guisad, Baguio City.

"That in the commission of the crime, the aggravating circumstance that it was committed in the dwelling of the offended party, the latter not having given provocation for it, is present." (p. 1, CFI record)

The trial court, presided then by Hon. Feliciano Belmonte, after due trial rendered its decision on May 30, 1966, finding the accused guilty and sentencing him to suffer "not more than TWELVE (12) YEARS and ONE (1) DAY of reclusion temporal and not less than SIX (6) YEARS and ONE (1) DAY of prision mayor, and to pay the costs." [1]

His motion for reconsideration and new trial having been denied, accused filed a notice of appeal; forthwith the case was forwarded to the Court of Appeals.

On September 23, 1974, the Court of Appeals through its Tenth Division rendered a decision the dispositive portion of which follows:

"PREMISES CONSIDERED, We find that the guilt of the accused Amado Daniel has been proven beyond reasonable doubt, and he should accordingly suffer the penalty for the crime herein charged.

"We find, however, that the sentence imposed upon the accused in the judgment appealed from is not in accordance with law.

"Republic Act No. 4111, which took effect on June 20, 1964, amended Article 335 of the Revised Penal Code,

providing that -

'The crime of rape shall be punished by reclusion perpetua.

'Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.'

"Under Section 17 of Chapter 11 of the Judiciary Act of 1948 (Republic Act No. 296, as amended) -

'The Supreme Court shall have exclusive jurisdiction to review, revise, reverse, modify or affirm on appeal, as the law or rules of court may provide, final judgments and decrees of inferior courts as herein provided, in -

(1) All criminal cases involving offenses for which the penalty imposed is death or life imprisonment; x x x '

"WHEREFORE, We hereby certify this case to the Supreme Court for appropriate further proceedings pursuant to law."[2]

By virtue of the foregoing decision of the Court of Appeals the case was certified to this Court and in a Resolution of March 6, 1975, the same was ordered docketed.[3]

Preliminary question -

The certification of the case to Us poses a preliminary question which strikes at the very root of a longstanding practice and procedure evoked for the last forty years or so since the creation of the Court of Appeals.[4]

Is the Supreme Court with jurisdiction to act on an appeal in a criminal case where the offense is punishable by reclusion perpetua or death certified to it by the Court of Appeals with findings of facts and of the guilt of the accused, but without imposing the penalty of reclusion perpetua or death on the appellant pursuant to Rule 124, Section 12, paragraph 2, of the Rules of Court?[5]

Mr. Chief Justice Fred Ruiz Castro, joined by other Justices, expresses the view that for this Court to acquire jurisdiction over the appeal, the decision before Us must have imposed on the appellant the penalty either of reclusion perpetua or death as the facts warranted.

The rest of the Justices together with the writer of this Opinion, believe otherwise and hold the view that the dispositive portion of the decision as written and rendered is in accordance with the Constitution and the law, and vests jurisdiction on the Court to act on the appeal.

A. In *People v. Ramos*, decided on November 28, 1947,[6] a case was certified to this Court by the Court of Appeals without findings of facts and simply on the ground that it was "of the opinion that the penalty that should be imposed in this case is reclusion perpetua, as recommended by the Solicitor General, and not reclusion temporal, as imposed by the lower court." The question arose as to the proper procedure to be followed by the appellate court in certifying cases to this Court under Section 145-K of the Revised Administrative Code as amended by Republic Act No. 52 which read:

"Whenever in any criminal case submitted to a division the said division should be of the opinion that the penalty of death or life imprisonment should be imposed, the said Court shall refrain from entering judgment thereon and shall forthwith certify the case to the Supreme Court for final determination, as if the case had been brought before it on appeal."

In disposing of the issue several matters came up which evoked different, and We may say, strong reactions from the Justices then composing the Court, but for brevity we shall not dwell on them. Simply stated, it was ruled that the Court of Appeals was duty bound to make its findings of facts to support its opinion that the penalty to be imposed upon the appellant was either life imprisonment or death so as to bring the case within the jurisdiction of this Court.

From the Resolution written for the Court by then Mr. Chief Justice Manuel V. Moran, We quote the following: pertinent portions:

"The jurisdiction of this Court predicated upon the opinion of the Court of Appeals, as provided in the above-quoted provision of the law, must of necessity depend upon the correctness of that opinion. There is nothing in the law precluding this Court from exercising its authority to pass upon such question which concerns its own jurisdiction. And in order that this Court may exercise its power of review, the Court of Appeals is bound to make in its order of certification such findings of facts as are necessary to support its conclusion that either life imprisonment or death is the penalty to be imposed. This is indeed covered by Rule 52, section 3, which provides that where a court to which an appeal has been taken has no appellate jurisdiction over the case and it certifies the same to the proper court, it must do so 'with a specific and clear statement of the grounds therefor.' The requirement of clear and specific grounds is precisely a device to prevent erroneous transmissions of jurisdiction from a lower to a superior court.

"Furthermore, the words 'shall refrain from entering judgment thereon' appearing in the provision above-quoted, are a sufficient indication that the Court of Appeals, at the time of certifying the case to this Court, had already examined the evidence and was ready to render judgment on the merits, but having found from the facts established by proof that the penalty to be imposed is either death or life imprisonment, instead of entering judgment thereon, it certifies the case to the Supreme Court for final determination. Since the certification is the only ground for determining our jurisdiction, it must contain not only conclusions of law but also findings of fact, the latter being more important than the former for they supply the real basis for determining jurisdiction. x x x x

"The instant case cannot be compared with cases coming directly from a Court of First Instance wherein either life imprisonment or death penalty is imposed, for in such cases, if we assume jurisdiction even where the judgment appears to be erroneous on its face, it is because the Court of First Instance has already exhausted its jurisdiction by rendering judgment on the merits containing both findings of fact and conclusions of law, and

under such circumstance it is more practical for the administration of the law that this Court should exercise its appellate jurisdiction by examining the evidence and correcting all errors both of fact and of law that might have been committed by the trial court. But here, the Court of Appeals is refraining from rendering judgment on the merits and is refusing to complete the exercise of appellate jurisdiction because it believes that such jurisdiction belongs to the Supreme Court and thus, it proceeds to transfer the case to this Court. It is in that transfer that we believe we may intervene in order to prevent an erroneous transfer.

xxx xxx xxx xxx

"Section 145-K of the Administrative Code is merely a method designed to make effective the appellate jurisdiction of both the Court of Appeals and this Court, as defined by law. According to the law of jurisdiction (section 138, Revised Administrative Code, as amended by Commonwealth Acts Nos. 3 and 259), offenses, for which the penalty imposed is death or life imprisonment, including offenses arising from the same occurrence or committed on the same occasion, come within the appellate jurisdiction of the Supreme Court, and the remaining offenses fall within the appellate jurisdiction of the Court of Appeals. x x x

"We are of the opinion and so hold, therefore, that in a case like this, the Court of Appeals, in certifying it to this Court, must state its findings of fact necessary to support its conclusion that the penalty to be imposed is either life imprisonment or death. While this Court will not review the findings of fact, it will pass upon the correctness of the legal conclusions derived therefrom. And if this Court finds the conclusions to be correct, it will assume jurisdiction. If it finds them to be wrong, the case will be returned to the Court of Appeals." (pp. 613-616, *supra*, italics supplied)

In Ramos, the case was accepted because the Court considered that there was substantial compliance with the law as the order of certification made reference to the opinion and recommendation of the Solicitor General whose brief contained sufficient findings of fact to warrant the conclusion that life imprisonment should be imposed upon the appellant. Justices Paras, Feria, Pablo, Hilado and Briones concurred in the Resolution.

Justice Gregorio Perfecto in a separate opinion concurred with the principle that the Court of Appeals is bound to make its findings of fact and study the evidence so as to determine whether the appellant is guilty or not, but dissented from that portion of the Resolution which accepted the case as he was of the opinion that the case should have been remanded to the Court of Appeals.[7]

Justice Pedro Tuason wrote a separate opinion and dissented from the majority insofar as it held that it was necessary for the Court of Appeals or a division thereof to state the reasons for its opinion that death penalty or life imprisonment should be imposed. He particularly dissented from statements that if this Court found the conclusions of the Court of Appeals to be wrong, the case should be returned to the Court of Appeals for further proceedings. According to Justice Tuason when a case is certified to this Court it is placed, by force of the Court of Appeals' opinion, within the jurisdiction of the Supreme Court for the latter to decide the appeal on the merits; findings of fact of the Court of Appeals are neither essential nor necessary. Justice Tuason was joined in his dissent by Justice Cesar Bengzon who later became Chief Justice of this Court and Justice Sabino Padilla.[8]

B. The theory is now advanced that We go one step further than that ruled in Ramos - that is, for the Court of Appeals not only to make its findings of fact and finding of guilt, but also to impose the penalty either of reclusion perpetua or death as the facts warrant in order that We may exercise Our appellate jurisdiction.

We believe that such a judicial ruling will do violence to the letter and spirit of the law which confers on the Supreme Court the exclusive prerogative to review on appeal and impose the corresponding penalty in criminal cases where the offense is punishable by reclusion perpetua or death.

Both the 1935 and the 1973 Constitutions vest upon the Supreme Court appellate jurisdiction, in "(A)ll criminal cases in which the penalty imposed is death or life imprisonment." [9] This jurisdiction is constitutional; the Supreme Court may not be deprived thereof by, Congress then, now the National Assembly. [10]

Section 17 of the Judiciary Act of 1948 as amended in turn provides that the foregoing appellate jurisdiction of the Supreme Court is exclusive.

Basically therefore, the objection to this new theory is one of jurisdiction - the lack of jurisdiction of the Court of Appeals to impose the penalty of reclusion perpetua or death.

The present controversy springs from the construction given to the second paragraph of Sec. 12, Rule 124, Rules of Court [11] more particularly to the use of the phrases "should be imposed" and "shall refrain from entering judgment", viz:

"xxx xxx xxx

"Whenever in any criminal case submitted to a division the said division should be of the opinion that the penalty of death or life imprisonment should be imposed, the said court shall refrain from entering judgment thereon and shall forthwith certify the case to the Supreme Court for final determination, as if the case had been brought before it on appeal." (italics Ours)

As we construe it, the Rule cited does not charge the appellate court with the duty of imposing the penalty of reclusion perpetua or death. All that the Rule requires is that should the Court of Appeals be of the opinion that death or life imprisonment should be imposed, it "shall refrain from entering judgment thereon. x x x "

The clause "entering judgment" means "rendering judgment". Thus, the Court of Appeals shall refrain from rendering judgment if and when it is of the opinion that reclusion perpetua or death is the proper penalty for the crime committed. This can be the only logical interpretation considering that the Court of Appeals is without jurisdiction to impose the penalties concerned. The phrase "entering judgment" is not to be equated with an "entry of judgment" as the latter is understood in Rule 36 in relation to Section 8, Rule 121 and Section 16, Rule 124, Rules of Court. "Entry of judgment" presupposes a final judgment - final in the sense that no appeal was taken from the decision of the trial or appellate court within the reglementary period. A judgment in a criminal case becomes final after the lapse of the period for perfecting an appeal, or when the sentence has been partially or totally satisfied or served, or the defendant has expressly waived in writing his right to appeal. [12] It is only then that there is a judgment which is to be entered or recorded in the book of entries of judgments. [13]

It would be incongruous or absurd to state that Section 12, second paragraph, Rule 124 enjoins the Court of Appeals from "entering judgment" when there is no judgment to be entered.

But then the argument is advanced - what is there to be reviewed by the Supreme Court when the decision being certified contains no penalty or sentence, as distinguished from appeals from the Court of First Instance where there is a complete judgment to be passed upon. The answer is simple. Section 12 itself states that the case is for final determination by the Supreme Court as if the case had been brought before it on appeal. Hence, based on the findings of facts of the appellate court which as a rule are conclusive and binding on Us, this Court "will pass

upon the correctness of the legal conclusions derived therefrom" (People v. Ramos, supra) and impose the correct penalty for the offense committed.

We realize that had Section 12, Rule 124 used the phrase "shall refrain from rendering judgment," there would be no cause for any ambiguity. We can only assume that the intent of the Rule was so clear to the Court when it drafted the Revised Rules of Court that it did not envision a possible contrary or adverse interpretation or ambiguity in its implementation under the phraseology used. It is incumbent upon Us to construe the Rule in the spirit and intent it was conceived and in harmony with pertinent laws and jurisprudence.

On the merits of the appeal -

1. Generally in a case of this nature, the evidence of the prosecution consists solely of the testimony of the offended party. Here We have the declaration of the victim, who at the time of the incident was a little less than 13 years of age, on the basis of which the trial court found the charge of rape duly established. The happenings are briefly summarized in the People's brief as follows:

"The offended party in this case is Margarita Paleng who was born on November 20, 1952 (p. 3, t.s.n., Manipon). She is a native of Balangabang, Tublay, Mountain Province (pp. 3, 12, id.) At the time of the incident in question on September 20, 1965, complainant was temporarily boarding at a house located at Pinsao, Guisad, Baguio City, as she was then a first year high school student at the Baguio Eastern High School (pp. 3, 12, 20, id.; p. 36, Estigoy).

"On September 20, 1965, at about three o'clock in the afternoon, she had just arrived in the City from Tublay in a Dangwa bus (p. 3, Manipon). Because it was then raining and the bus was parked several meters away from the bus station, she waited inside the bus (pp. 3, 22, id.). After about three minutes of waiting, the accused came and started molesting her by inquiring her name and getting hold of her bag (pp. 4, 22-24, id.). But she did not allow him to hold her bag (p. 24, id.). She called the attention of the bus driver and the conductor about the actuation of the accused, but it seemed that the former were also afraid of him (pp. 24-25, id.).

"Despite the rain, she left the bus and went to ride in a jeep parked some 100 meters away (pp. 4, 25, id.). The accused closely followed her (p. 4, id.). When the jeep started to go, the accused also rode and sat beside her (p. 5, id.).

"When the jeep reached Guisad, she alighted on the road but she still had to negotiate a distance of ten meters (p. 5, id.). The accused also alighted and again he tried to carry her bag (p. 5, id.). Although he was not allowed to carry her bag, he was adamant in following her (p. 5, id.).

"Reaching her boarding house, she opened the door and was about to close it when the accused dashed in and closed the door behind him (pp. 31-32, id.). When she entered her room, the accused went in (p. 7, id.). He pulled a dagger eight inches long and threatened her: 'If you will talk, I will kill you'. (p. 7, id.). Margarita was stunned into silence because of her fear (p. 7, id.). Thereupon, the accused held her hair with his left hand and forced her to lie down in bed (p. 7, id.). He also placed his left hand with a handkerchief in Margarita's mouth, at the same time holding the dagger and her neck with his right hand (pp. 7-8, id.). She was forcibly made to lie down and, at this moment, the accused removed the buttons of his pants (p. 8, id.). He then put down the

dagger on the bed (p. 8, id.). Her attempts to extricate herself from the accused was to no avail as she was only 4 ft. and 8 inches tall and weighed about 95 to 100 pounds (p. 35, id.) while the accused was 5 ft. and 7 inches tall and weighed about 126 pounds (pp. 8, 59, id.). He then held his penis (pp. 8, 36, id.), used his thigh to separate the legs of Margarita (p. 38, id.), tried, but failed, to remove her panty (p. 36, id.). He nonetheless guided his penis and inserted it inside the vagina of the complainant after prying open the part of her panty covering her private parts (pp. 9, 36, id.). Then he succeeded in having carnal knowledge of the offended party (p. 9, id.). Margarita lost consciousness. When she recovered, he was already gone (p. 9, id.).

"The following morning, her father came to visit her. She confided to him the terrible misfortune which befell her (pp. 9-10, id.). She was immediately brought to the Baguio General Hospital where she was examined (p. 10, id.). Then they proceeded to the Police Department. The Chief of Police accompanied them to the Health Center where she was again examined by Dr. Perfecto O. Micu who thereafter submitted his medical report (Exh. C; p. 3, rec.; pp. 11, 14-16, id.). Margarita and her father gave their respective statements before the police authorities (Exh. B, pp. 5-6, rec.; p. 11, t.s.n.). She signed her criminal complaint prepared by the Fiscal's Office of Baguio (Exh. A; p. 1, rec.; p. 11, t.s.n.)." (pp. 2-4, Brief at p. 83, rollo)

The City Medico-Legal Officer, Dr. Perfecto Micu, was called to the witness stand and he testified on the physical examination conducted on the person of Margarita Paleng on September 23, 1965 and his findings as contained in the report were as follows:

"1. Hymen - circular-stellate type with healing lacerations at 6:00, 8:00, 9:00 and 11:00 o'clock positions in the face of a clock.

"2. Contusions at the base of the hymen at 3:00 & 9:00 o'clock regions.

"3. Vaginal Orifice - tight and hardly admits 2 fingers.

"4. Vaginal wall-tight and vaginal folds are prominent.

"5. Vaginal smear - negative for spermatozoa and for gram negative intra or extra-cellular diplococci." (Exh. "C" p. 3, CFI record)

Dr. Micu concluded that "defloration was recent". He further declared that the condition of the hymen revealed that Margarita Paleng was a virgin before the incident complained of, and that the number of lacerations and contusions at the base of the hymen indicated the degree of force exerted to effect the sexual act.[14]

For his defense, appellant claimed that he and Margarita were acquainted with each other since 1963, and there were occasions when they rode together in a bus; that the incident of September 20, 1965 inside the room of Margarita was with the latter's consent, and in fact it was the second time he had carnal knowledge with her, the first time having occurred inside a shack; that he promised Margarita that he would marry her, but to his surprise, she filed the instant complaint against him.[15]

2. The issue being one of credibility, We find no cogent reasons for discarding the findings of facts of the trial

court which were sustained by the Court of Appeals after the latter had examined the evidence as a result of which it certified the case to this Court.

Appellant assails the veracity of the testimony of the complainant. But what possible motive could a thirteen-year old girl barely in her teens have in fabricating a story that could only bring down on her and her family shame and humiliation and make her an object of gossip and curiosity among her classmates and the people of her hometown. It cannot be denied that a public trial involving a crime of this nature subjects the victim to what can be a harrowing experience of submitting to a physical examination of her body, an investigation by police authorities, appearance in court for the hearing where she has to unravel lewd and hideous details of a painful event which she would prefer to forget and leave it unknown to others. If Margarita did forego all these and preferred to face the cruel realities of the situation it was due to her simple and natural instincts of speaking out the truth.

The insinuation that this complaint was filed because appellant had not married the girl although he promised to marry her, is preposterous. On September 20, 1965, Margarita was only twelve years and ten months old and was not of marriageable age, hence, marriage was a legal impossibility. And as regards appellant's testimony that the complaint was instigated by the Chief of Police of Tublay who was Margarita's uncle, the trial court did not give credit to such a declaration.

Counsel for appellant stresses that notwithstanding that Margarita had the opportunity to ask for help or attract the attention of other people before she reached her boarding house, she failed to do so. According to Counsel where were people at the Dangwa station, in the busy streets, in the market place, in the jeepney parking place where the girl took a jeep to proceed to the boarding house, and in the neighboring houses the closest of which was about 5 meters away, but no attempt was ever made by complainant to seek help so as to prevent appellant from molesting her.[16]

Appellant's contention presupposes that Margarita was well aware all the time from the moment she saw the appellant inside the bus that the latter had intentions of abusing or raping her. All that the appellant did inside the bus was to hold her bag and she called the attention of the driver and the conductor to the impertinence of appellant but the two did not do anything about it.[17] And when Margarita walked from the bus to the jeepney station, although she saw appellant walking behind her she did not suspect that he was following her. To a question propounded by His Honor whether she suspected that appellant was following her, Margarita answered: "No sir, I did not suspect." [18] All along Margarita could not call the attention of the people in the street or shout for help inasmuch as at that particular moment the appellant was not doing anything against her. And when Margarita reached the boarding house there were no persons around [19] and in fact she went straight to her room and it was at that particular moment when appellant barged into the room before she could close the door. In short, the poor girl was simply taken by surprise by the forced entrance of appellant who immediately took out an 8-inch long dagger and said "If you will talk I will kill you."

Persons can have different reactions to a situation like that — some may manifest an aggressive or violent attitude of confronting a molesting or impertinent fellow while others, like 12-year old Margarita, may assume a silent, fearful attitude.

Appellant's counsel also claims that Margarita did not offer any resistance to the acts of the accused at the time the latter was allegedly forcing himself on her as shown by the medical findings that there were no signs of extra-genital injuries on the girl's body, and no blood stains on her dress and underwear.

The foregoing arguments are inadequate to weaken and destroy the veracity of Margarita's straightforward and positive declaration as to how appellant, a 22-year old farmer in the prime of his manhood, weighing 126 lbs., and

five feet and six inches tall,[20] overpowered her and succeeded in accomplishing the sexual act despite her resistance. Margarita was less than 13 years of age, was 4'8" in height, and weighed around 95 lbs.[21]

In a crime of rape, force need not be irresistible; "it need but be present, and so long as it brings about the desired result, all consideration of whether it was more or less irresistible, is beside the point." [22]

All that is necessary is that the force used by the accused is sufficient for him to consummate his evil purpose. In *U.S. v. Villarosa*, 1905, there was a similar situation. A 12 year old girl was sexually abused in the woods by a man of superior physical strength. In holding the accused Villarosa guilty of rape the Court held:

"It is a doctrine well established by the courts that in order to consider the existence of the crime of rape it is not necessary that the force employed in accomplishing it be so great or of such character as could not be resisted; it is only necessary that the force used by the guilty party be sufficient to consummate the purpose which he had in view." (4 Phil. 434, 437 citing Judgment May 14, 1878, Supreme Court of Spain. The Villarosa doctrine has been followed in numerous cases involving the crime of rape and one of the latest are *People v. Equec*, 1977, per Justice Enrique Fernando, 70 SCRA 665.)

And as stated in *People v. Savellano*, per Justice Ramon Aquino, the force or violence necessary in rape is naturally a relative term, depending on the age, size and strength of the parties and their relation to each other.[23]

Rape is likewise committed when intimidation is used on the victim and the latter submits herself against her will because of fear for her life and personal safety. In this case of Margarita Paleng, appellant was armed with a dagger and with it threatened to kill the girl if she would talk or scream for help. Her fear naturally weakened whatever resistance Margarita could muster at the time and as a result appellant was able to consummate his coitus on the victim.[24]

One last point raised by the able counsel of appellant, Atty. Braulio D. Yaranon, who at the time of the trial in 1965 was the Vice-Mayor of Baguio City, was that appellant voluntarily submitted to a lie detector test with the National Bureau of Investigation and the report of the lie detector examiner is in appellant's favor, that is, the latter was telling the truth on the questions propounded to him one of which was whether he forced Margarita Paleng into having sexual intercourse with him and the reply was "No".[25]

On this matter We find the trial Judge's observations and conclusions meritorious and We quote from his decision the following:

"As to the N.B.I. lie detector test report, the Court does not put much faith and credit on it. It is well known that the same is not conclusive. Its efficacy depends upon the time, place and circumstances when taken and the nature of the subject. If subject is hard and the circumstances, as in this instant, were not conducive to affect the subject emotionally, the test will fail. The subject had nothing more to fear because the trial was over. He was not confronted by the victim or other persons whom he had a reason to fear. Naturally, his reaction to the questions propounded was normal and unaffected and the apparatus could not detect it." (pp. 172-173, CFI record)

To conclude, the crime committed by the appellant is rape with the use of a deadly weapon with the aggravating circumstance of having been committed in the dwelling of the offended party. Although Margarita was merely renting a bed-space in a boarding house, her room constituted for all intents and purposes a "dwelling" as the term is used in Article 14(3), Revised Penal Code. It is not necessary, under the law, that the victim owns the place where he lives or dwells. Be he a lessee, a boarder, or a bed-spacer, the place is his home the sanctity of which the

law seeks to protect and uphold.

Hence, the correct penalty for the crime committed is death pursuant to Article 335 of the Revised Penal Code as amended. However, for lack of the necessary number of votes, the penalty next lower in degree is to be applied.

PREMISES CONSIDERED, We affirm the judgment of conviction of Amado Daniel for the crime of rape as charged, and We sentence him to suffer the penalty of reclusion perpetua and order him to indemnify Margarita Paleng by way of moral damages in the amount of Twelve Thousand Pesos (P12,000.00) and pay the costs.

Decision Modified.

SO ORDERED.

Teehankee, J., concur.

Concepcion, Jr., and Guerrero, JJ., on their merits.

Barredo, J., concur in the judgment of conviction but I join the Chief Justice as regards the preliminary question.

Antonio, J., concurs with the Chief Justice on the preliminary question, and with Justice Palma on the judgment affirming the conviction of the accused.

Aquino, J., see concurring opinion.

Santos, J., concurs with the judgment on the merits of the appeal but joins the Chief Justice on the preliminary questions.

Castro, C.J., takes no part on the merits, and files a separate opinion on the preliminary question, concurred in Barredo, Makasiar, Antonio, Concepcion, Santos, Fernandez, and Guerrero, JJ.

Makasiar, and Fernandez, JJ., took no part on the merits.

[1] p. 173, CFI record

[2] The Tenth Division was composed at the time of Justices Ramon C. Fernandez, Ricardo C. Puno, and Sixto A. Domondon, with Justice Puno as the ponente, pp. 107-108 of rollo

[3] p. 127, *ibid.*

[4] The Court of Appeals was organized under Commonwealth Act No. 3. Abolished in 1945 under Executive Order No. 37 issued by the President of the Philippines, the appellate court was recreated under R.A. No. 52 upon the inauguration of the Philippine Republic. See Moran on the Rules of Court, 1970 Ed., Vol. I, p. 14.

[5] Formerly 145-K, Revised Administrative Code, later adopted in Section 34, RA 296, otherwise known as the Judiciary Act of 1948

[6] 79 Phil. 612

[7] pp. 617-619, *ibid.*

[8] *ibid.*, pp. 620-629

[9] Art. VIII, Sec. 2(4), 1935 Constitution; Art. X, Sec. 5, subsec. 2(d), 1973 Constitution

[10] Art. VIII, Sec. 2, 1935 Constitution; Art. X, Sec. 1, 1973 Constitution

- [11] formerly 1450K Revised Administrative Code and Sec. 34, Judiciary Act of 1948
- [12] Section 7, Rule 120, Rules of Court
- [13] Section 2, Rule 36, *ibid.*
- [14] *tsn*, Nov. 26, 1965, pp. 14-16
- [15] *tsn*, December 23, 1965, pp. 43-57
- [16] pp. 18-19, Appellant's brief
- [17] *tsn* December 9, 1965, pp. 24-25
- [18] pp. 25-27, *ibid.*
- [19] pp. 30-31, *ibid.*
- [20] *tsn*. December 23, 1965, p. 59
- [21] *tsn*. December 9, 1965, p. 35
- [22] Decision of Supreme Court of Spain, May 14, 1878, 5 Viada, 5th ed., page 224, pt. 8, cited in *People v. Momo*, 1931, 56 Phil., 86, 87.

[23] 57 SCRA 320, 328

- [24] See *People v. Garcines*, 1974, 57 SCRA 653
- [25] See pp. 165-166, CFI record

CONCURRING OPINION

AQUINO, J.:

I concur. The phrase "shall refrain from entering judgment thereon" found in section 12 of Rule 124 and section 34 of the Judiciary Law means that the Court of Appeals should not decide the case. The Court of Appeals has been certifying to this Court criminal cases, wherein the imposable penalty is death or reclusion perpetua, without rendering any judgment but merely expressing its opinion that the penalty imposed by the trial court is erroneous and that the imposable penalty is death or reclusion perpetua. Invariably, this Court accepted those cases and decided the same. This Court's jurisdiction in criminal cases, as defined in the Constitution, cannot be diminished but it can be enlarged.

Appealed criminal cases may be divided into three classes: (1) those wherein the lower court imposed the penalty of death or reclusion perpetua and which are within this Court's exclusive appellate jurisdiction; (2) criminal cases wherein the trial court imposed reclusion temporal or a lesser penalty and which fall within the appellate jurisdiction of the Court of Appeals, and (3) criminal cases wherein the trial court imposed a penalty of reclusion temporal or a lesser penalty but a Division of the Court of Appeals, while in the process of deciding the case, comes to the conclusion that the imposable penalty is death or reclusion perpetua. That third class of criminal cases should be elevated to this Court "for final determination".

Reclusion perpetua was properly imposed in this case upon the appellant who is a pedophile.

SEPARATE OPINION ON THE PRELIMINARY ISSUE

CASTRO, C.J.:

1.

The preliminary issue at bar is: What is the correct course of action that the Court of Appeals should take when, in a criminal case properly appealed to it, that court determines that the penalty of death or reclusion perpetua (life imprisonment) should be imposed instead of the lesser penalty imposed by the court a quo? Should it refrain from rendering judgment and forthwith certify the case to the Supreme Court? Or should it render judgment imposing what it considers as the proper penalty (either life imprisonment or death) but refrain from entering judgment and thereafter certify the case to the Supreme Court?

At the center of scrutiny are the pertinent provision of section 34 of the Judiciary Act of 1948, as amended, and the identical statement in the second paragraph of section 12 of Rule 124 of the Rules of Court, both of which read:

"Whenever in any criminal case submitted to a division [of the Court of Appeals] the said division should be of the opinion that the penalty of death or life imprisonment should be imposed, the said court shall refrain from entering judgment thereon and shall forthwith certify the case to the Supreme Court for final determination, as if the case had been brought before it on appeal."

Justices Claudio Teehankee, Cecilia Munoz Palma and Ramon C. Aquino interpret the phrase "entering judgment" in the inhibitory clause "shall refrain from entering judgment" to mean "rendering judgment" or "pronouncing judgment," arguing that "[t]his can be the only logical interpretation considering that the Court of Appeals is without jurisdiction" to impose the penalties of death and life imprisonment. They thus opt to maintain the present practice^[1] of requiring no more than a forwarding certification (embodying findings of fact supporting the opinion that the penalty of death or life imprisonment should be imposed) by the Court of Appeals for the purpose of placing such case within the jurisdiction of the Supreme Court.

For the reasons hereunder stated, we consider their interpretation unwarranted and therefore reject the conclusion that it leads to.

2.

Section 34 of the amended Judiciary Act and the second paragraph of section 12 of Rule 124 of the Rules of Court must be construed in the light of the unequivocal phraseology of paragraph (d), subsection (2), section 5 of Article X of the Constitution, which states:

"Sec. 5. The Supreme Court shall have the following powers:

"xxx xxx xxx

"(2) Review and revise, reverse, modify or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and decrees of inferior courts in -

"xxx xxx xxx

"(d) All criminal cases in which the penalty imposed is death or life imprisonment."

Varying the language of this provision only to the extent necessary to carry out its intention, the first subdivision of the third paragraph of section 17 of the Judiciary Act made exclusive the appellate jurisdiction of the Supreme Court, in the following words:

"The Supreme Court shall have exclusive jurisdiction to review, revise, reverse, modify or affirm on appeal as the law or rules of court may provide, final judgments and decrees of inferior courts as herein provided, in -

"(1) All criminal cases involving offenses for which the penalty imposed is death or life imprisonment; x x x"

The constitutional mandate, given due statutory acknowledgment, sets forth the pertinent appellate jurisdiction of the Supreme Court. We accord capital significance to the phrases "final judgments and decrees of inferior courts" and "the penalty imposed." These phrases are crystal-clear. Read together with the remainder of the provision, they state in precise and unmistakable terms the sole intended inescapable meaning that the Supreme Court shall have appellate jurisdiction over final judgments of inferior courts in criminal cases in which the penalty imposed is death or life imprisonment. No hermeneutic expertise or exercise can validly fashion some other meaning or intention.

3.

The constitutionally determined nature of the criminal cases falling within the periphery of the appellate jurisdiction of the Supreme Court fixes our perspective, defines and delimits our judicial prerogative in the interpretation of section 34 of the Judiciary Act, and dictates the manner in which the law in question should be read and made operative.

This being so, the clause enjoining the Court of Appeals to "refrain from entering judgment" whenever it "should be of the opinion that the penalty of death or life imprisonment should be imposed" cannot validly be interpreted as a bar to that appellate court's "rendering judgment." If the meaning given to the law by the minority should prevail and the case is forwarded, as this case before us was, to the Supreme Court on a bare certification by the Court of Appeals, then we have the unacceptable happenstance of an ordinary legislative act upstaging the fundamental law, since, plainly, the Supreme Court will be constrained to exercise its power to "review, revise, reverse, modify or affirm on appeal" in criminal cases where NO "final judgment" in which the penalty imposed is death or life imprisonment" has been rendered or pronounced.

The minority view would thus result not only in an unconstitutional imposition on the Supreme Court of assumption of jurisdiction over a case that is beyond its original appellate competence but would also compel abandonment by the Court of Appeals of appellate jurisdiction legally and duly vested in and acquired by it.

4.

Because sec. 34 of the Judiciary Act does not and cannot have primacy or ascendancy over the Constitution, we assert that the Court of Appeals is legally empowered to impose the penalties of death and life imprisonment. Four basic and compelling considerations underlie our view.

First: There is no law - no law at all - that states such prohibition in categorical terms. The minority view rests solely on the strained interpretation foisted on the very law under consideration - and this interpretation, as we have said, is entirely unwarranted.

Second: In the case at hand, the Court of Appeals duly and legally assumed appellate jurisdiction over the accused Amado Daniel's appeal from the decision of the Court of First Instance of Baguio sentencing him to suffer a penalty less than life imprisonment. This cannot be debated since section 29 of the Judiciary Act specifically places such appeal within the Court of Appeals' jurisdictional ambit with the statement that -

"The Court of Appeals shall have exclusive appellate jurisdiction over all cases, actions, and proceedings, not enumerated in section seventeen of this Act, properly brought to it."

Thus, absent any constitutional or legal constraints, the Court of Appeals should have rendered the proper judgment in the case. For, verily, judicial jurisdiction is "the power with which judges are invested for administering justice - that is, for trying civil or criminal cases, or both, and deciding them and rendering judgment . . . "[2] (italics supplied)

Third: Harking back to the Constitution, the Court of Appeals, by unmistakable constitutional categorization, is an "inferior court." And it is its judgments as such inferior court which, so the Constitution plainly states, are the subject of the Supreme Court's plenary power of review, revision, reversal, modification or affirmance.

Fourth: Absurdity and incongruity should not be read into the law so as to support the view that a panel of three Justices of the Court of Appeals is denied the power to impose the penalties of life imprisonment and death at the same time that such power is recognized in a single judge of a lower court of admittedly lesser category.

5.

The resulting conclusion that the Court of Appeals must impose the proper penalty does not justify the apprehension that the Supreme Court will be hampered in the exercise of its jurisdiction because the findings of fact made by the inferior appellate court "will have to be respected." This stated procedural practice has never been honored in the absolute. The ultimate function of the Supreme Court is to render justice. And we need not elaborate on or belabor the numerous occasions when, to attain this objective, the Court shunted aside technicalities to bare wide open the controversy and inquire into each and every aspect, be it legal or factual or a mixture of both.

And this is one perfect instance where the avowed ends of justice must override practice and procedure, for, no less than human life is at stake. And this would not be a novelty. When a trial court's judgment imposing the death penalty is elevated to this Court en consulta, we strip the case into minutiae: fact by fact, detail by detail, facet by facet. We see no reason why, when a decision imposing the penalty of death or life imprisonment is rendered by the Court of Appeals, the same manner of meticulous inquiry should not be resorted to by the Supreme Court. A sentence imposing death or life imprisonment is of the self-same gravity, whichever is the sentencing tribunal.[3]

6.

It is rather obvious that the phrase "entering judgment" is completely disparate from the term "rendering judgment." There is no need to perambulate and meander; the provisions of sections 1 and 2 of Rule 36 of the

Rules of Court need merely be read to perceive the strikingly sharp antithesis between the two phrases. These sections read:

"Section 1. Rendition of judgments. - All judgments determining the merits of cases shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it [sic] is based, signed by him, and filed with the clerk of the court.

"Section 2. Entry of judgments and orders. -If no appeal or motion for new trial is filed within the time provided in these rules, the judgment or order shall be entered by the clerk. The recording of the judgment or order in the book of entries of judgments shall constitute its entry. The record shall contain the dispositive part of the judgment or order and shall be signed by the clerk, with a certificate that such judgment or order has become final and executory."

The word "enter" (which undeniably is the root of "entering") "with reference to judgments has acquired a definite meaning in our procedure. There simply exists no ambiguity to warrant embroiled interpretation. We need not hammer out meaning from the word 'entered.' It is there. Section 2, Rule 36 chisels out the legal import of the word." [4] To repeat and stress the Rule, "[t]he recording of the judgment or order in the book of entries of judgments shall constitute its entry." Upon the other hand, the rendition of judgment is the judicial act of the writing by the judge of the decision and the filing thereof with the clerk of court. [5]

Such being the precise acceptations of the terms "entering judgment" and "rendering judgment," we see no cogent reason why our indisputably learned lawmakers should have written in the former when they meant the latter. If, as the minority would have it, the intention was just that, why then has not section 34 of the Judiciary Act been accordingly amended, considering that the said Act has been amended no less than ninety (90) times [6] since its enactment thirty years ago in 1948?

The conclusion is thus ineluctable that section 34 of the Judiciary Act means exactly what it says. (And its intendment cannot and should not be altered through the expedient of palpably tortuous and torturous statutory interpretation.) This rightly projects the limited character of the said section - a procedural device designed to effect and make effective the jurisdictions of both the Supreme Court and the Court of Appeals. Read as written, this section neither imposes nor curtails constitutionally and legally established jurisdictions. The Court of Appeals can and must render a decision and impose the proper penalty of death or life imprisonment, and, to effect the jurisdiction of the Supreme Court, refrain from entering its judgment, and forthwith certify the case to the Supreme Court.

7.

Aside from according the respect that is due to the Constitution and setting aright the import of section 34 of the Judiciary Act, our reading of the law will obviate unnecessary, pointless and time-wasting shuttling of criminal cases between the Supreme Court and the Court of Appeals. We advert to that portion of the Ramos [7] decision, cited with approval by Justice Muñoz Palma, which states:

"We are of the opinion and so hold, therefore, that in a case like this, the Court of Appeals, in certifying it to this Court, must state its findings of fact necessary to support its conclusion that the penalty to be imposed is either life imprisonment or death. While this Court will not review the findings of fact, it will pass upon the correctness of the legal conclusions derived therefrom. And if this Court finds the conclusions to be correct, it

will assume jurisdiction. If it finds them to be wrong, the case will be returned to the Court of Appeals." (italics supplied)

We particularly and especially object to the return of the case to the Court of Appeals if the Supreme Court "finds" the legal conclusions in the certification "to be wrong." This incident will never come to pass if section 34 is correctly construed - that is, as we construe it - for, the Supreme Court will acquire jurisdiction over the case from the very inception and can, without bothering the Court of Appeals which has fully completed the exercise of its jurisdiction, do justice in the case.

8.

ACCORDINGLY, this Court directs that, henceforth, should the Court of Appeals be of the opinion that the penalty of death or reclusion perpetua (life imprisonment) should be imposed in any criminal case appealed to it where the penalty imposed by the trial court is less than reclusion perpetua, the said Court, with a comprehensive written analysis of the evidence and discussion of the law involved, render judgment expressly and explicitly imposing the penalty of either death or reclusion perpetua as the circumstances warrant, refrain from entering judgment, and forthwith certify the case and elevate the entire record thereof to this Court for review.

Barredo, Makasiar, Antonio, Concepcion, Jr., Santos, and Fernandez, JJ., concur.

Guerrero, J., on leave. Certified that he concurs in this separate opinion.

[1] People vs. Ramos, 79 Phil. 612.

[2] Conchada vs. Director of Prisons, 31 Phil. 95, quoting Escriche, Diccionario de Legislacion y Jurisprudencia, Vol. 3, p. 743, ed. 1875.

[3] See U.S. vs. Laguna, 17 Phil. 532: "The requirement that the Supreme Court pass upon a case in which capital punishment has been imposed by the sentence of the trial court is one having for its object.... the protection of the accused. Having received the highest penalty which the law imposes, he is entitled under that law to have the sentence and all the facts and circumstances upon which it is founded placed before the highest tribunal of the land to the end that its justice and legality may be clearly and conclusively determined."

[4] Dirige vs. Biranya, 17 SCRA 840.

[5] People vs. Soria, 22 SCRA 948; Ago vs. CA, 6 SCRA 530; 49 C. J. S. p. 222.

[6] The Judiciary Act of 1948 (RA 296) was amended by Republic Acts Nos. 431, 643, 644, 843, 859, 1186, 1404, 1605, 1914, 1963, 1969, 2613, 2682, 2696, 2718, 2875, 3067, 3084, 3086, 3087, 3090, 3114, 3327, 3599, 3632, 3749, 3828, 4057, 4134, 4235, 4322, 4533, 4644, 4728, 4769, 4798, 4814, 4821, 4833, 4838, 4892, 5052, 5064, 5067, 5075, 5084, 5103, 5107, 5116, 5126, 5129, 5135, 5140, 5147, 5204, 5277, 5296, 5341, 5382, 5389, 5433, 5440, 5468, 5479, 5675, 6031, 6092, 6157, 6159, 6263, 6264, 6439, 6445, and 6546, and by Presidential Decrees Nos. 204, 289, 363, 411, 411-A, 506, 516, 537, 722, 723, 827, 974, 1130, 1439, 1482 and 1600.

[7] 79 Phil. 612, at p. 616.

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.