

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CLEMENTE ULPINDO, ACCUSED-APPELLANT.

G.R. No. 115983. April 12, 1996

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-115983/>

PADILLA, J.:

This is an appeal from the judgment of the Regional Trial Court (RTC) of Tagudin, Ilocos Sur, Branch 25[1] which convicted herein accused-appellant of the crime of rape allegedly committed upon then seven-year old Regina Pelayo.

The information,[2] dated 19 July 1991, alleged that:

"xxx xxx xxx

That on or about the last week of December, 1990, in the municipality of Tagudin, province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously have carnal knowledge of one Regina Pelayo, a seven (7) year old girl, by means of force and against the latter's will and consent.

Contrary to law."

The facts of the case, culled from the testimonies of witnesses for the prosecution and the defense, are as follows:

Regina Pelayo could no longer remember exactly the day or month when she was allegedly abused by accused-appellant,[3] but she recalled that one afternoon, while she was sweeping their backyard, and while her mother, brothers and sisters were all asleep in their house, accused-appellant approached her and pulled her to his kitchen, then "went on top of her" for more or less five (5) minutes amidst her continued shouting and crying. Thereafter, accused-appellant threatened to kill her if she told her mother about the incident.

The material part of Regina's testimony on the alleged rape, consisting of two and a half (2-1/2) pages, is reproduced below:

"PROSECUTOR CARDENAS:

Q

What, if any, Madam Witness, did this Menteng do to you?

A

There is, Sir.

Q

What was that?

A

He went on top of me, Sir.

Q

And while this Menteng who is also known as Clemente Ulpindo, went on top of you, did you feel anything painful?

A

Yes, sir, there was.

Q

What particular part of your body that was painful when he went on top of you?

A

On my vagina, Sir.

Q

Did you not shout when Clemente Ulpindo was doing that to you?

A

I shouted, Sir.

Q

And still Clemente Ulpindo was on top of you even if you are shouting?

A

Yes, Sir.

Q

Where did he do that to you?

A

In their kitchen, Sir.

Q

Did you go to their kitchen?

A

Yes, Sir.

Q

Why did you go to their kitchen?

A

He pulled me, Sir.

Q

Do you remember, Madam Witness, what month or year when you were abused by Menteng?

A

I cannot remember anymore, Sir.

Q

And when he went on top of you and you were feeling pain in your vagina, what happened next?

A

I got sick, Sir.

Q

Did you tell that to your mother?

A

No, Sir.

Q

Why not?

A

Because Menteng told me, Sir, that if I will tell it to my mother, he will kill me.

Q

Who told you that? Who threatened you?

A

Clemente Ulpindo, Sir.

Q

And you were then afraid of him?

A

Yes, Sir.

Q

So, that was the reason why you did not tell what happened to you right away to your mother?

A

Yes, Sir.

Q

When your mother brought you to her for check-up?

A

Yes, Sir.

Q

When Clemente Ulpindo went on top of you, how long did he do that to you?

A

More or less five (5) minutes, Sir.

Q

And, during that period of five (5) minutes, you continuously shouted and cried?

A

Yes, Sir.

PROSECUTOR CARDENAS:

That would be all, your Honor."^[4] (italics supplied)

On cross-examination, Regina stated that she was picking mangoes in accused-appellant's yard when the latter arrived, scolded her, then dragged and whipped her with a belt which hit her vagina. When she cried, accused-appellant released her. Thus:

"COURT:

Are you sweeping or are you doing something else?

A

I was sweeping the yard, your Honor.

ATTY. LORENZO:

You are sweeping what?

A

The scattered dirt in our yard, Sir.

Q

Madam Witness, can you tell to this Honorable Court if Menteng have (sic) mango trees surrounding his house?

A

There are, Sir.

Q

At that time you were sweeping your yard, you were picking fruits?

A

Yes, Sir.

Q

And in fact, when Menteng arrived, he scolded you?

A

Yes, Sir.

Q

And in fact, Mang Menteng grabbed you and whipped you with a belt?

A

He whipped me, Sir.

Q

And in the process of whipping you, your vagina was hit?

A

Yes, Sir.

Q

And when your mother asked you what happened to your vagina, you told her that it was hit when Menteng whipped you?

A

No, Sir.

Q

And when Mang Menteng dragged you, you cried because you were hit when he whipped you?

A

Yes, Sir.

Q

After you were whipped by Mang Menteng and your vagina was hit, he let you go?

A

Yes, Sir.[5] (*Italics supplied*)

Resurreccion Pelayo, Regina's mother, testified that sometime during the first week of January 1991, Regina started complaining about pains in her crotch. Resurreccion examined her child's vagina and found it to be swollen. To ease the swelling, Resurreccion applied pain relievers over the affected area but Regina's vagina remained swollen. On 7 January 1991, when Regina was chilling due to high fever, Resurreccion decided to bring her to the Barangay Health Center for treatment.[6]

Jessimar Lascota, a midwife, testified that she attended to Regina and her mother on 7 January 1991. After taking Regina's temperature, she ordered Regina to lie down upon learning from Resurreccion about Regina's condition. When Regina took off her panty, Jessimar immediately noticed the bluish discoloration on Regina's vagina, particularly the labia majora, which was visibly bruised.

According to Jessimar, she asked Regina repeatedly if she had inserted something inside her vagina but the child refused to answer. When Jessimar threatened not to treat her unless she spoke, Regina blurted out the name of

"Menteng" and told Jessimar that "Menteng" gave her some money and then inserted his penis inside her vagina.[7] Suspecting that Regina might have been raped, Jessimar told Resurreccion to comfort her daughter which she did.

Regina then told her mother Resurreccion that she was "raped by Menteng" and that she was afraid to tell this to her mother because Menteng threatened to kill her.[8] Resurreccion further averred that Regina told her that accused-appellant called her (Regina) to his house and upon her entering the kitchen, he brought Regina upstairs, then undressed her and even applied oil in his penis before mounting her.[9]

Resurreccion admitted that while she could not pinpoint the exact day when the rape occurred, she surmised that it happened the day before Regina was whipped by accused-appellant. Resurreccion confirmed that Regina indeed went to accused-appellant's front yard to pick some mangoes and when accused-appellant caught her in the act of stealing, accused-appellant whipped Regina with a belt.[10]

Resurreccion regarded accused-appellant as a very selfish neighbor. Moreover, she had long harbored the suspicion that accused-appellant was part of a group who had stolen their cows.[11] Since then, they were not on speaking terms with him.

Upon Jessimar's advice, Resurreccion brought Regina to the emergency room of the district hospital of Southern Ilocos Sur where she was examined by Dr. Eugene Dauz who made the following findings:

DIAGNOSIS:

Gen. Survey:

FIN, FID, Febrile, ambulatory, no. in C-R distress

PPE:

HEENT: Pinkish, palpebral conj., anicteric esclera, no nasal/aural discharge

C/L:)

Heart:) essentially normal

abdomen)

extremes)

Genitalia) Labia majora - erythematous change

Hymen - healed lacerations at 6 & 9 o'clock

OPD IE - admits tip of finger freely.[12]

Dr. Dauz testified that the erythematous change (reddish discoloration of the skin) on Regina's labia majora could not be attributed to penile penetration of the vagina but could be caused by the whipping action of a hard object.[13] However, the condition of Regina's vaginal orifice indicated that Regina was no longer a virgin and the hymenal lacerations could have been caused by, among other factors, the head of an erect penis penetrating the vaginal canal of a 7-year old girl like Regina.

Dr. Dauz expounded that it is almost impossible for a belt to have caused the hymenal lacerations found on Regina's vagina considering the anatomical location of the hymen. If ever, the victim must be either in a prone or supine position in order for the whipping action to produce such injuries.[14]

Testifying for the defense, Clemente Ulpindo, Jr. said that in the morning of 2 January 1991, from Barrio Tagudin, Ilocos Sur, he and his father went to visit their former house in Ranget. Arriving at said place, he saw the Pelayo sisters, Regina, Ileen and Abbygail, picking mangoes inside their compound. He saw Regina shaking the branches atop one of the mango trees, and he shouted at them. Caught in flagrante, Regina hastily skidded

down (nagalus-us) the tree as her other sisters, Abbygail and Ileen, ran away. When Regina touched the ground, he saw his father, Clemente Ulpindo, whip Regina with a belt and in the process Regina was hit in her crotch.

Accused-appellant corroborates his son's story as he strongly denied that he gave money to Regina to lure her inside his house and rape her. He stated that the Pelayos were his neighbors in Ranget until he moved out to reside in Borono, Tagudin, Ilocos Sur. During the last week of December 1990, he was in Ranget everyday doing carpentry work in a house owned by Quirino Andaya. His son, Clemente Ulpindo, Jr., accompanied him to work.[15]

Accused-appellant asserted that there was only one occasion when he saw Regina Pelayo, and that was when he and his son went to inspect their property in Ranget. When they arrived at the place, accused-appellant saw the Pelayo sisters picking mangoes beside their house. Previously, he had already caught the same children inside his property but he promptly dismissed these incidents as petty matters. But this time, he got angry with the children when he saw that many unripe fruits were being destroyed in the process. Clemente, Jr. shouted at the children who scampered away. Regina, who was left on top of a tree, immediately slid down. He hit Regina with his belt[16] which went between her legs as Regina ran towards their house.

Accused-appellant averred that the Pelayos fabricated the charge of rape against him because as the only members of Jehovah's Witnesses in the barrio (Ranget), they (Pelayos) were perceived as unbearable and very selfish neighbors. He knew that the Pelayos were mad at him and his family; hence, he did not bother to confront them about the petty thievery.

Jaime Garcia, accused-appellant's co-worker in the house of Quirino Andaya, testified that he and Clemente attended a Jehovah's Witness assembly in Vigan, Ilocos Sur during the last week of December 1990 and for that reason, it was impossible for Clemente to have committed the subject crime.[17]

The defense also presented a medical expert, Dr. Arturo G. Llavore, NBI Medico Legal Officer in San Fernando, La Union, to dispute Dr. Daz's medical findings. In his testimony, Dr. Llavore noted that the erythema found in Regina Pelayo's labia majora was superficial. This means that under normal circumstances, the healing period usually takes a few hours to one (1) or two (2) days at the maximum. Thus, assuming physical violence was inflicted on the said area sometime during the last week of December 1990, it could not have been present for another week in the absence of another physical violence inflicted on the same area.

Upon the other hand, the healed hymenal lacerations at six (6) and nine (9) o'clock positions cannot be solely attributed to forcible sexual intercourse. Other factors may include menstruation, stress, physical activities, physical trauma - like the whipping action of a belt, surgery, masturbation and instrumentation, or even due to infection. Based on these premises, Dr. Llavore did not rule out the possibility that a seven (7) year old girl who went sliding down from the top of a mango tree may have injured her hymen when it ran across a rough surface or protrusions on the tree trunk or its branches.[18]

Dr. Llavore also noted that the lacerations found on Regina exhibited smooth edges. This means that assuming that the lacerations were inflicted a week before the examination, the edges should have remained sharp even after a week and would only become smooth after the lapse of the third month onwards.

Otherwise stated, Dr. Llavore opined that based on the medical certificate alone, one cannot conclusively state that Regina Pelayo was raped.[19]

On 14 April 1994, the trial court rendered judgment of conviction, sentencing accused-appellant to suffer the penalty of reclusion perpetua, to pay the amount of P 50,000.00 to Regina Pelayo, P 108.00 for medical expenses and P6.00 for transportation fare.[20]

In five (5) short paragraphs, the trial judge cryptically formulated what appears to be the ratio decidendi of the case. viz:

"In the memorandum for the accused, the lawyer would want to state that actually no raping was talked about by the victim. It only said that the accused went on top of her and after some five (5) minutes he let her go with a warning however not to talk of what happened or he will kill her.

The defense would also want the victim to admit that when caught getting mangoes, she was whipped with the belt, however, according to the witnesses that was another occasion and had nothing to do with the rape because the rape took place on another date.

The defense would want to point out that the medical findings do not prove that the injuries were caused by rape. In the face however of the testimony of the victim that she was indeed raped by the accused, what better testimony could there be to admit that rape really took place. Let us not forget that Dr. Llavore is talking of possibilities whereas the victim stated she was actually raped.

We are therefore inclined to agree with the prosecution that rape actually took place and that the child Regina was actually raped by the accused.

For why could have the accused stayed on top of the victim for five (5) minutes and the child felt pain in her private part as he was on top of her if she was not raped?"[21]

In this appeal, accused-appellant pleads two (2) assignments of error.[22]

I

THE TRIAL COURT ERRED IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES.

II

THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.

Accused-appellant argues that the testimony of Regina Pelayo must be doubted because Regina never testified that she was forced to lie down, her clothes removed, and that accused-appellant inserted his penis inside her vagina.[23] Instead, Regina clearly admitted that accused-appellant caught her stealing mangoes and that accused-appellant whipped her with a belt that went between her legs and hit her vagina.

Accused-appellant further argues that Regina's medical examination only established the fact of loss of physical virginity and does not satisfactorily and convincingly establish the fact of sexual intercourse during the time and date of the alleged rape.

In the appellee's brief, the Solicitor General argues that:

"Contrary to appellant's contention, it was not necessary for the victim to state that she was forced to lie down. The crime is statutory rape where the elements of force and intimidation are not material as the victim was under twelve years of age (No. 3, Art. 335, Revised Penal Code; *People v. Lagrosa, Jr.*, 230 SCRA 298).

The failure of Regina to narrate and demonstrate in full detail, which appellant claims she should have done, the act of inserting his penis into her vagina should not destroy her credibility. Her tender age of seven and the trauma she experienced explain her lapses.

The brief story of Regina and the testimony of the attending physician Dr. Eugene Dauz of the Southern Ilocos Sur District Hospital that Regina was raped are enough to establish the guilt of appellant beyond reasonable

doubt."[24]

When a woman says that she was raped, she in fact tells it all.[25] This proposition has evolved in our case law to mean that a conviction for rape may be sustained on the uncorroborated testimony of the complaining woman. Rape is inherently a crime that is rarely committed in the presence of witnesses, for which reason, the law recognizes that it is a charge so easily made and so hard to be refuted. Thus, to obviate the danger and impiety of falsehood, and to repel any inference that the story may have been a mere fabrication, every story of defloration must never be received with precipitate credulity.

To sustain a conviction, the testimony of the offended woman must be inherently clear and convincing and not materially discredited or impeached. And if corroborated by other evidence, the same must have reasonable tendency to connect the defendant with the commission of the offense.

The function of assigning values to the testimony of witnesses, while undisputably the province of the trial court, is in fact the foundation in arriving at a rational and sound judgment. And in a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond a reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.[26]

In the case at bench, the transcripts of stenographic notes show that Regina gave a confused testimony. Regina never said that she was raped by accused-appellant the day before she was caught stealing mangoes in accused-appellant's yard. It was her mother, Resurreccion, who averred this fact based on an alleged confrontation with Regina after Jessimar Lascota relayed her suspicion that Regina might have been raped.[27]

Jessimar's and Resurreccion's testimonies on the alleged rape must be rejected for being hearsay, which cannot be admissible to prove the alleged rape but only for the purpose of proving that Regina suffered bruises on her vagina and then fell ill during the first week of January 1991.

The Court is not unaware that a child of tender years like Regina may be so timid and ignorant so as to give a clear and correct account of the events leading to the commission of the crime of rape. But, what engenders doubt in her story is her alleged continued shouting and crying for about five (5) minutes while accused-appellant was allegedly "on top of her." Significantly, Regina made no mention that, after being pulled inside the kitchen, accused-appellant forced her to lie down, had her panty removed, and then inserted his penis inside her vagina.

While it may be conceded that a rape victim cannot be expected to keep an accurate account of her traumatic experience,[28] and while Regina's answer that accused-appellant "went on top of her," and that she continuously shouted and cried for five (5) minutes may have really meant that accused-appellant had carnal knowledge of her for five (5) minutes despite her shouts and cries, what renders Regina's story inherently improbable is that she could not remember the month or year when the alleged rape occurred, and yet, she readily recalled the incident when she was whipped by accused-appellant with a belt that hit her vagina after she was caught stealing mangoes. From her testimony, Regina could not have been raped on the day that she was caught stealing mangoes because Regina herself admitted that she was released by accused-appellant after being whipped. The information alleged that the rape occurred on or about the last week of December 1990 which is more than a week before 7 January 1991, the day when she was brought to the barangay health center. If she was raped the day before or some days proximately close to the whipping incident, then there is no reason why she could have failed to remember the same.

Regina testified in answer to what appears to be leading questions that she felt pain in her vagina as a result of the rape and then she "got sick." But on the day of the whipping incident, there is no evidence that Regina's vagina

was already swollen, or that Regina was feeling ill. In fact, the prosecution never rebutted the testimony of Clemente, Jr. that he saw Regina "on top of the mango tree" and that she was caught stealing mangoes with her sisters. Instead, the prosecution tried to link Regina's swollen vagina and illness to the fact that she was allegedly raped.

The prosecution's medical evidence, however, failed to convincingly corroborate the crime of rape. While it may be admitted that there were hymenal lacerations found on Regina's vagina, yet, as a matter of evidence, no particular significance can be attached to the testimony of the physician as to the breaking of the hymen, which does not undertake to determine either the time and cause of its rupture.

The fact that Regina's vagina was hit or perhaps allegedly hit by a belt buckle is admitted in the records. The reddish discoloration found on her labia majora may have been the effect of the whipping action. Whether or not the same whipping action would have caused the hymenal lacerations cannot be conclusively established by the two (2) divergent medical opinions presented in this case. And neither could it be conclusively established that the lacerations were caused by carnal intercourse with Regina.

The gravamen of the offense of statutory rape is carnal knowledge of a woman below twelve (12) years of age. Force or intimidation need not be present.[29] In proving its case, the prosecution must rely on the strength of its own evidence, not on the strength or weakness of the defense. The Court is not saying that this is an instance of a false charge of rape, although our case law disclose of such instances.[30] Rather, the Court says the prosecution has the burden of proof to show beyond reasonable doubt that accused-appellant was guilty of the crime of rape. Evidence, to be believed, must not only proceed from the mouth of a credible witness, but must be credible in itself. This is where the prosecution failed.

WHEREFORE, the appealed decision of the Regional Trial Court of Tagudin, Ilocos Sur is hereby REVERSED. Accused-appellant Clemente Ulpindo is hereby ACQUITTED of the crime of rape based on reasonable doubt and his immediate release from prison is hereby ORDERED unless he is otherwise detained for any other lawful or valid cause.

SO ORDERED.

Bellosillo, Vitug, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Penned by Judge Herminia M. Pascua.

[2] Rollo, p. 10.

[3] TSN, 29 June 1992, p. 14.

[4] TSN, 29 June 1992, pp. 13 & 14.

[5] Ibid, pp. 19-20.

[6] TSN, 27 August 1992, p. 27.

[7] TSN, 29 August 1992, pp. 5-7.

[8] TSN, 27 August 1992, p. 9.

[9] TSN, 27 August 1992, p. 18.

[10] TSN, 27 August 1992, pp. 10-11.

[11] TSN, 27 August 1992, p. 26.

- [12] Exhibits A; A-1; A-2; Original Records, p.9.
- [13] TSN, 22 July 1992, p. 15.
- [14] Ibid, p. 11.
- [15] TSN, 26 January 1993, p. 2.
- [16] Exhibit D.
- [17] TSN, 24 May 1993, pp. 1-9.
- [18] TSN, 23 September 1993, pp. 14-15.
- [19] TSN, 23 September 1993.
- [20] See p. 11, Decision.
- [21] Rollo, pp. 31-32; Decision, pp. 10-11.
- [22] Rollo, p. 183.
- [23] See Note 4.
- [24] Rollo, pp. 221-222.
- [25] See U.S. vs. Ramos, et al., G.R. No. 126, December 26, 1901, 1 Phil. 87 at 82; People vs. Repollo, G.R. No. 108872, 237 SCRA 476.
- [26] Rule 133, Section 2, Rules of Court.
- [27] TSN, 27 August 1992, p. 11.
- [28] People vs. Sabellina, G.R. No. 935 14-15, December 1, 1994, 238 SCRA 492.
- [29] People vs. De la Cruz, G.R. No. 28815, March 27, 1974, 56 SCRA 84; People vs. Nescio, G.R. No. 10208, Dec. 28, 1994, 239 SCRA 493.
- [30] U.S. vs. Ramos, G.R. 102832, Dec. 11, 1916, 35 Phil. 671; People vs. Sandagon, G.R. No. 106892, June 13, 1994, 233 SCRA 108; People vs. Cajilo, G.R. No. 108873, Dec. 4, 1995; People vs. Bodoy, G.R. No. 113908, Dec. 6, 1995.

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.