

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CLEMENTE DE LA PEÑA ALIAS “AYAG”, DEFENDANT-APPELLANT.

G.R. No. 116060. July 31, 1997

Ponente: BELLOSILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-116060/>

BELLOSILLO, J.:

CLEMENTE DE LA PEÑA alias Ayag, a 56-year old bachelor, was convicted of rape for having carnal knowledge of 10-year old Janet Bajao on 19 April 1991. The trial court sentenced him to reclusion perpetua and ordered him to indemnify his victim P50,000.00 for moral damages and another P50,000.00 for exemplary damages, and to pay the costs.[1]

By the victim’s account, while she was alone gathering firewood at about 1:00 o’clock in the afternoon of 19 April 1991 in the coconut plantation of Catalino Ipanag in Sitio Min-abaca, Barangay South Poblacion, Medina, Misamis Oriental, accused Clemente de la Peña suddenly came from behind and without saying a word forcibly dragged her to a nearby hut. Once inside he undressed her and placed himself on top of her. He masturbated and then pushed his penis into her vagina; there was no penetration. Afterwards he handed her a P2-coin.

Since it was already lunch time Rosalie, older sister of Janet, followed her to the plantation to fetch her. Rosalie heard some conversation coming from the hut. From a distance of about three (3) meters she saw Janet lying down with face up while the accused was on top of her, making push-and-pull[2] movements of his hips and at the same time masturbating. He inserted his penis into the vagina of Janet. When Ayag noticed the presence of Rosalie he stopped and the latter ran away and reported the matter to her mother.

At 7:00 o’clock that evening the victim was examined by the Municipal Health Officer. The examination revealed that her hymen was intact but there was penetration. The hymenal tags were no longer visible due to constant rubbing of a hard object probably an erectile penis and the edges of the labia minora were already gaping with redness which could have been caused by an erectile penis forced into the vagina.

The accused disavowed any knowledge of the crime but admitted that at the time of the incident he was masturbating inside his hut while the victim was outside about two (2) arms length away. He now prays for exoneration claiming that the crime of rape was not proved. He capitalizes on the testimony of the victim that he did not insert his penis into her vagina hence there was no penetration. Considering this statement of the victim, the question now is whether accused-appellant is still liable for statutory rape.

While the victim may have so testified, it should be remembered that she was only ten (10) years old at the time, guileless and innocent in the ways of the world. She must have thought that the penis of appellant merely touched her vagina and nothing more. Indeed, she was captive of her own innocence. But we consider significant the following narration of the witness -

Q: Can you demonstrate (to) the Honorable Court how (did) he masturbate (sic)?

A: Yes, sir (witness demonstrating with the use of her left index finger representing the penis of Clemente de la Peña and with her right close [sic] fist inserted (her) left finger (into her) right close [sic] fist) [3]

Apparently her sexual awareness was still that of a child as she entertained the notion that when appellant put his penis into her vagina that was also masturbation. At any rate, her testimony on mere touching is just one side of the narrative. Accused-appellant conveniently disregarded the testimony of the expert witness. The examining physician categorically stated that there was penetration since the edges of the labia minora were already gaping with redness. This condition in her opinion could have been caused by an erectile penis driven into the vagina. Moreover, the hymenal tags were no longer present due to constant rubbing of a hard object, probably an erect penis. The medical finding that only the labia minora was penetrated since the hymen was still intact may thus provide another explanation for the victim's perception that there was no penetration.

Some years back this Court was faced with a similar attack on the testimony of a rape victim. In *People v. Castillo*[4] a five-year old girl, after having been undressed by her family's houseboy, was asked to lie on top of him. He then made a push-and-pull movement. She felt his private part touch her vagina but there was no penetration. The accused harped on this testimony to dispute his conviction for rape. But the Court, as in the present case, was totally unconvinced. It reasoned out that -

x x x x when the physician's finding of penetration is corroborated by the testimony of the victim that the appellant's private part touched her vagina, it is sufficient to establish the essential requisite of carnal knowledge.

More so in this case when Janet's sister "saw the accused on top of her, making a push-and-pull movement of his hips and at the same time masturbating." Clearly, the essential requisite of carnal knowledge has been adequately established. Statutory rape as defined in Art. 335, par. (3), of the Revised Penal Code is committed by having carnal knowledge of a woman under twelve (12) years of age. The penetration, no matter how slight, or mere introduction of the male organ into the labia of the pudendum constitutes carnal knowledge.

We however clarify that reclusion perpetua entails imprisonment of at least thirty (30) years. The statement in the dispositive portion of the decision of the trial court that the penalty is equivalent to thirty (30) years gives the impression that after that period the convict is to be immediately set free. This is not so; rather, he only becomes eligible for pardon.[5]

WHEREFORE, the judgment appealed from finding accused-appellant CLEMENTE DE LA PEÑA alias Ayag guilty of statutory rape and sentencing him to reclusion perpetua, to pay Janet Bajao moral damages of Fifty Thousand Pesos (P50,000.00) is AFFIRMED. However, the amount of exemplary damages awarded by the court a quo is reduced to Twenty Thousand Pesos (P20,000.00).
SO ORDERED.

Padilla, (Chairman), Vitug, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Decision penned by Judge Vivencio A. Galon, RTC-Br. 26, Misamis Oriental; Records, pp. 114-115.

[2] "Dugno-dugno."

[3] TSN, 14 October 1992, pp. 12-13.

[4] G.R. No. 84310, 29 May 1991, 197 SCRA 657.

[5] *People v. Penillos*, G.R. No. 65673, 30 January 1992, 205 SCRA 546.

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.