

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROBERTO MOSTRALES, ACCUSED-APPELLANT.

G.R. No. 125937. August 28, 1998

Ponente: PUNO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-125937/>

PUNO, J.:

Teodocia Mabunga, a married woman and a mother of five (5), accused Roberto Mostrales of raping her, allegedly committed as follows:[1]

“That on or about June 14, 1992, in the Municipality of Enrile, Province of Cagayan, and within the jurisdiction of this Honorable court, the said accused, Roberto Mostrales y Nicolas, armed with a gun, with lewd design and by the use of force, violence, threat and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with the offended party, Teodocia A. Mabunga, against her will.

“Contrary to law.”

Accused pleaded ‘not guilty’ upon arraignment and underwent trial.

The prosecution evidence came chiefly from the testimonies of Teodocia Mabunga, her husband, Pedro Mabunga, Dr. Susan Tan, and SPO4 Paulo Gammad.

The records show that in the evening of June 14, 1992, spouses Teodocia and Pedro Mabunga were resting in their hut (“kalapao”) situated in the middle of their two-hectare farm in Enrile, Cagayan. Teodocia was then 40 years old while Pedro was 63 years old.

At about 10:00 p.m., they heard three (3) gunshots fired at one minute interval. After the third gunshot, the accused, Roberto Mostrales, then 24 years old, barged into their hut. The spouses recognized him as he was their neighbor in Liwan Norte and he is related by affinity to Pedro.[2] Pointing a short gun at the spouses, the accused informed them that he is a member of the New People’s Army (NPA) and bragged that his firearm belongs to their commander. He told Pedro that their commander wanted to talk to Teodocia and warned him not to follow them because his NPA companions posted outside the hut might kill him. Pedro got scared and did not inquire why the alleged NPA commander wanted to speak to his wife.[3]

The accused led Teodocia to an empty hut several meters away from their hut. When accused undressed, she begged him: “Berto, please don’t use me, I am pregnant and you are calling me your Auntie and my husband your Uncle.” Accused then undressed her, forced her to lie down and forcibly took off her panty at gunpoint. Teodocia failed to resist nor shout while she was being raped by the accused as she felt her effort would be fruitless. Accused had carnal knowledge with her three (3) times.[4]

At about 12:00 midnight, accused brought Teodocia back to their hut. After accused had left, she tearfully revealed to Pedro that she was raped. Pedro, however, did not take any immediate action as he knew that accused was armed with a gun. They stayed awake that night discussing what they should do.[5]

After a few days, they reported the rape to the army detachment in Enrile and accused's firearm was confiscated.[6] They also informed the barangay chairman about the incident.

On June 18, 1992, Teodocia was examined by Dr. Susan Tan, a medical health officer at the Cagayan Valley Regional Hospital. Dr. Tan's examination showed that Teodocia was five (5) months pregnant and her sexual organ had no traces of spermatozoa.[7]

On June 19, 1992, upon the advice of their barangay chairman, the spouses went to the Enrile Police station. They executed their sworn statements[8] before then SPO3 Paulo Gammad. Thereafter, a criminal complaint was filed against accused.[9]

The defense gave a different version of the incident through the sole testimony of the accused.

Accused claimed that he and Teodocia are lovers. Allegedly, their liaison began when she borrowed from him two hundred and thirty pesos (P230.00) during a gambling session in the house of a friend. On December 17, 1991, he tried to collect the debt. She was unable to pay, instead, they engaged in sex in his house. That same month, he again went to her house to collect the debt. She still had no money and she invited him into her room where, once more, they had intercourse. Her only companion then was her child, about two or three years old. Their next sexual tryst took place on January 10, 1992, inside the bathroom in the house of Teodocia.[10]

Accused alleged that on June 14, 1992, they agreed to meet in a farm hut. They arrived in the hut at around 10:00 a.m. After their sexual liaison, he accompanied Teodocia back to her hut. She was scolded by Pedro who was waiting for her.[11]

The next day, June 15, 1992, he met Teodocia in a gambling house owned by Armando Lucas, a neighbor. They again had sex before they parted ways. That was their last meeting. Teodocia was never able to pay her debt. Even then, accused did not inform his uncle Pedro about his wife's debt.[12]

After trial, accused was found guilty as charged. The dispositive portion of the judgment[13] of the trial court reads:

"WHEREFORE, finding the accused Roberto Mostrales guilty beyond all reasonable doubt of the crime of rape defined and penalized by Article 335 of the Revised Penal Code, he is hereby sentenced to reclusion perpetua, and to indemnify Teodocia Mabunga P30,000.00 as moral damages. Costs against the accused.

"SO ORDERED."

In this appeal, accused-appellant contends:

"I

"THE TRIAL COURT GRAVELY ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF THE COMPLAINANT WHICH IS INCREDIBLE, UNRELIABLE, THEREFORE NOT SUFFICIENT TO SUSTAIN A CONVICTION BEYOND REASONABLE DOUBT.

"II

"THE TRIAL COURT GRAVELY ERRED IN NOT ACQUITTING ACCUSED-APPELLANT WHEN THE EVIDENCE ADDUCED BY THE PROSECUTION FAILED TO OVERCOME THE PRESUMPTION OF INNOCENCE IN THEIR ERROR (sic) BY CLEAR AND CONVINCING EVIDENCE OF GUILT BEYOND REASONABLE DOUBT."

We affirm the judgment of the conviction.

Article 335 of the Revised Penal Code[14] provides:

“Art. 335. When and how rape is committed. – Rape is committed by having carnal knowledge of a woman under any of the following circumstance.

“1. By using force or intimidation;

“2. When the woman is deprived of reason or otherwise unconscious; and

“3. When the woman is under twelve years of age or is demented.

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

“x x x x x x x x.”

The evidence shows that the victim was forced to submit to appellant’s bestial desires through intimidation. The appellant used a gun to take the victim to an isolated hut where the crime was committed. He also warned the victim’s husband not to follow them as his NPA companions were surrounding their place. Inside the hut, the appellant undressed the victim at gunpoint.

Nonetheless, appellant claims that his representation of membership in the NPA does not constitute intimidation. He further contends that the victim consented to have sex with him as she did not shout nor resist during the incident.

Intimidation is addressed to the mind of the victim. It is subjective and its presence cannot be tested by any hard-and-fast rule, but must be viewed in the light of the victim’s perception and judgment at the time of the crime.[15]

In the case at bar, at the time the crime was committed, the victim was forty years old, five (5) months pregnant, unarmed and married to a person older than her by almost twenty years. In contrast, appellant was in his twenties, armed with a gun and purportedly in the company of several NPA members. The crime happened in the evening and in a place where help was impossible. The nearest neighbor of the victim is some three (3) kilometers from their hut. Considering all these circumstances, we hold that the victim was intimidated to submit to the lustful desire of the appellant. We quote the testimony of the victim:[16]

(FISCAL REMUDARO):

“Q: After firing three (3) shots, do you remember if Roberto Mostrales ever came in?

(VICTIM) :

“A: Yes, Sir, he went inside.

“Q: When he was there, what happened?

“A: While inside, he told us that he was a member of the New People’s Army (NPA) and while there, he told us that his gun is owned by the Commander and he used that gun to threaten us.

x x x x x x x x

“Q: Where did accused bring you?

“A: Then he brought me to another hut and while there, he told me to talk to the Commander and while inside the hut, the Commander was not there and I did not see any person inside and I was surprised he undressed me and forced me to lie down.

x x x x x x x x

“Q: x x x what did the accused do next?

“A: While inside the Kalapao- farm hut, he forced me to lie down, he did everything to me that he wanted to do , I wanted to shout but I cannot shout and he used me.

“Q: What (sic) he did something to you, what do you mean?

“A: He had sexual intercourse on (sic) me three (3) times.

“Q: You said he had sexual intercourse with you three (3) times, what do you mean?

“A: Successive, that while inside the hut, he used me and forced me and I told him not to touch me because I am pregnant and married, but despite my pleas to him, he insisted and used me when I was forced to lie down and he did it three times, Sir.

“Q: You said that he had sexual intercourse with you three (3) times, is it by force?

“A: Yes, he forced me because I pleaded to him and still he insisted.

“Q: Did he use a gun?

“A: Yes, Sir, he was holding his gun.

“Q: You said that he had sexual intercourse with you, how do you know that he had sexual intercourse with you for three (3) times?

“A: I said with force because he kept on inserting his penis in my vagina and while he was inserting his penis in my vagina I felt it, despite my plea, he kept doing what he wanted to do.” (emphasis ours)

Pedro Mabunga, the victim’s husband, corroborated her testimony that appellant threatened them with a gun. He himself was paralyzed by fear. He failed to question appellant’s real motive in taking Teodocia with him. He could not even react after he learned that his wife had been violated by appellant.[17] If the husband himself was intimidated, there is more reason to hold that the wife was shackled with fear when she was being raped by the appellant.

Behavioral psychology teaches us that people react to similar situations dissimilarly.[18] Thus, physical resistance is not the sole test to determine whether or not a woman involuntarily succumbed to the lust of an accused.[19] Jurisprudence holds that even though a man lays no hand on a woman, yet if by array of physical forces he so overpowers her mind that she does not resist or she ceases resistance through fear of greater harm, the consummation of unlawful intercourse by the man is rape.[20]

In the present case, we note that the victim could not have physically resisted appellant’s unchaste urge because of her condition at that time – she was five (5) months pregnant. Thus, instead of engaging appellant in a struggle that could have endangered her unborn child and her health itself, she chose to appeal to his conscience by reminding him that she is his auntie, a married woman and pregnant. Her lack of physical resistance cannot be considered as consent. Indeed, the evidence shows that the appellant undressed the victim, forced her to lie down, forcibly took-off her underwear at gunpoint and then had sex with her. That is rape in any language.

Appellant’s claim that their illicit relationship is consensual is contradicted by the evidence on record. If she really consented to the sexual intercourse with appellant, she would not have informed her husband about the incident.[21] Nor would she have reported the incident to the public authorities. No married woman would subject herself to public scrutiny and humiliation to foist a false charge of rape. Neither would she take the risk of being alienated from her husband and her family. The fact that the victim resolved to face the ordeal and relate in public what many similarly situated would have kept secret evinces that she did so to obtain justice.[22] Her willingness and courage to face the authorities as well as to submit to medical examination are mute but eloquent confirmation of her sincere resolve.[23]

Appellant’s “sweetheart theory” cannot be given credence for it lacks corroboration. Indeed, he gave conflicting

accounts of his sexual trysts with the victim. Thus, he claimed that the last time he had sex with her was on June 15, 1992. Upon further questioning, appellant contradicted himself by stating that they did not meet again after June 14, 1992.[24] Also, on direct examination, appellant claimed that he had sex with the victim when he went to her house in December 1992 to collect her debt. However, on sur-rebuttal, appellant testified it was on November 15, 1992, when he went to her house and had sex with her.[25]

Appellant's attempt to picture the victim as a woman of loose morals cannot succeed. It is unnatural for a married woman, a mother of five (5) children, living in a rural community where almost everybody knows everybody, to prostitute herself for a measly sum of two hundred and thirty pesos.

Appellant also failed to establish any reason why the victim would charge him falsely with rape.[26] In the absence of evidence of improper motive on the part of the victim to falsely testify against the appellant, her testimony deserves credence.[27]

We note that the appellant was sentenced to suffer the penalty of reclusion perpetua and ordered to indemnify the victim in the amount of P30,000.00 as moral damages. It is error for the trial court to consider the award of moral damages as the civil indemnity mandated by the Revised Penal Code. In the recent case of *People vs. Paredes*,[28] we stressed that civil indemnity *ex delicto* is distinct from moral damages, thus:

“Jurisprudence has elucidated that the award authorized by the criminal law as civil indemnity *ex delicto* for the offended party, in the amount authorized by prevailing judicial policy and aside from other proven actual damages, is itself equivalent to actual or compensatory damages in civil law. For that matter, the civil liability *ex delicto* provided by the Revised Penal Code, that is, restitution, reparation and indemnification, all correspond to actual or compensatory damages in the Civil Code since the other damages provided therein are moral, nominal, temperate or moderate, liquidated and exemplary or corrective damages which have altogether different concepts and fundamentals.

“We reiterate here that said civil indemnity is mandatory upon the finding of the fact of rape: it is distinct from and should not be denominated as moral damages which are based on different jural foundations and assessed by the court in the exercise of sound discretion. Evidently, therefore, the lower court actually intended the award of P50,000.00 as indemnification to be paid to the victim.

“On this score, we have to take note of a new policy adopted by the Court. The recent judicial prescription is that the indemnification for the victim shall be in the increased amount of P75,000.00 if the crime of rape is committed or effectively qualified by any of the circumstances under which the death penalty is authorized by the applicable amendatory laws. x x x

“On other cognate development in the case law on rape is applicable to the present disposition. The Court has also resolved that in crimes of rape, such as that under consideration, moral damages may additionally be awarded to the victim in the criminal proceeding, in such amount as the Court deems just, without the need for pleading or proof of the basis thereof as has heretofore been the practice. Indeed, the conventional requirement of *allegata et probata* in civil procedure and for essentially civil cases should be dispensed with in criminal prosecutions for rape with the civil aspect included therein, since no appropriate pleadings are filed wherein such allegations can be made.

“Corrolarily, the fact that complainant has suffered the trauma of mental, physical and psychological sufferings which constitute the bases for moral damages are too obvious to still require the recital thereof at the trial by the victim, since the Court itself even assumes and acknowledges such agony on her part as a gauge of her credibility. What exists by necessary implication as being ineludibly present in the case need not go through the superfluity of still being proved through a testimonial charade.” (emphasis supplied)

The victim in the case at bar is thus entitled to both moral damages and civil indemnity.

IN VIEW WHEREOF, we AFFIRM the trial court's judgment sentencing appellant ROBERTO MOSTRALES y NICOLAS to reclusion perpetua. In line with the new jurisprudence,[29] appellant is ordered to pay the victim, Teodocia Mabunga, in the amount of fifty thousand pesos (P50,000.00), as civil indemnity, and P50,000.00, as moral damages.[30]

SO ORDERED.

Melo (Acting Chairman), Mendoza and Martinez, JJ., concur.
Regalado (Chairman), J., on official leave.

[1] Information dated July 22, 1992; Original Records, p. 17.

[2] Pedro's first wife is a cousin of the mother of the accused.

[3] TSN, July 9, 1993, pp. 5-7; TSN, August 9, 1993, pp. 3-5, 13.

[4] TSN, July 9, 1993, pp. 7-9, 19, 21.

[5] Ibid., p. 10; TSN, August 9, 1993, pp. 5, 15.

[6] The record

is silent whether accused was duly authorized to carry a firearm.

[7] Exhibit "C".

[8] Exhibits "B"

and "D", Original Records, pp. 4-5.

[9] TSN, July 9, 1993, p. 11-12; TSN, August 9, 1993, p. 6-7.

[10] TSN, June 20, 1994, pp. 2-7.

[11] TSN, June 20, 1994, p. 4.

[12] Ibid., pp. 2, 4, 6.

[13] Decision, dated January 15, 1996; Rollo, pp. 51-59.

[14] As amended by R.A.No. 2632, approved on June 18, 1960, and R.A. No. 4111, approved on June 20, 1964.

[15] People vs. Oarga, G.R. Nos. 109396-97, July 17, 1996, 259 SCRA 90.

[16] TSN, July 9, 1993, pp. 7-10.

[17] Exhibit "D", Original Records, p. 5.

[18] People vs. Atuel, G.R. No. 106962, September 3, 1996, 261 SCRA 339.

[19] People vs. Gumahob, G.R. No. 116740, November 28, 1996, 265 SCRA 84.

[20] 44 Am Jur 918.

[21] People vs. Espanol, G.R. No. 105676, April 10, 1996, 256 SCRA 137, 145.

[22] People vs. Cristobal, G.R. No. 116279, January 29, 1996, 252 SCRA 507, 516.

[23] *People vs. Cabaluna*, G.R. No. 118077, November 21, 1996, 264 SCRA 596.

[24] TSN, June 20, 1994, p. 7.

[25] TSN, August 17, 1995, pp. 4-5.

[26] *Ibid.*, pp. 4-5, 7.

[27] *People vs. Cristobal*, *supra*, note 22.

[28] G.R. No. 127569, July 30, 1998.

[29] *People vs. Prades*, *supra*.

[30] *People vs. Caballes*, G.R. Nos. 102723-24, June 19, 1997, 274 SCRA 83; *People vs. Leoterio*, G.R. Nos. 119405-06, November 21, 1996, 264 SCRA 608. *People vs. Conde*, G.R. No. 112034, January 31, 1996, 252 SCRA 681; *People vs. Cañada*, G.R. No. 112176, February 6, 1996, 253 SCRA 277.

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.