

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO VELOSO Y BAER, ACCUSED-APPELLANT.

G.R. No. 130333. April 12, 2000

Ponente: PUNO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-130333/>

PUNO, J.:

In an Information[1] filed on April 21, 1995 before Branch 11 of the Regional Trial Court, 11th Judicial Region, Davao City, accused Rolando Veloso y Baer was charged with the crime of rape, viz:

"That on or about April 12, 1995 in the City of Davao, Philippines and within the jurisdiction of this Honorable Court, the above-mentioned accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with SHEILA T. BESINGA, 9 years of age, against the will of the latter.

CONTRARY TO LAW."

Accused Veloso pleaded not guilty and underwent trial.

The evidence for the prosecution shows that on April 12, 1995, at about 5:00 p.m., complainant Sheila Besinga upon order by her father, Benedicto, bought fish at Purok 6, Carmen, Baguio District. She was walking on her way home to Purok 8 when she sensed somebody following her. She looked back and aimed her flashlight on the face of the person behind her. She recognized the man as the one whom she passed by relieving himself near the side of the road. Suddenly, the man grabbed her and carried her to the nearby coffee plantation. He poked a knife at her, tied her hands and made her lie down. He undressed her, placed himself on top of her and forced an intercourse with her. She felt severe pain. Shortly thereafter, he let her stand, dressed her up and left. Sheila ran home crying and told her father that she was raped. When Benedicto saw her private parts bloodied, he asked help from their neighbors. They reported the incident to the barangay captain, then proceeded to the Baguio Police Station where Sheila gave a sworn statement. The following day, Sheila was examined at the Davao Medical Center.

Dra. Floranne Margaret Lam-Vergara, who examined Sheila, testified that her hymen suffered from hyperemia, or reddening and discoloration of the skin, at 9 o'clock and 2 o'clock, and had laceration at 6 o'clock. She opined that this could have been caused by a forceful contact of the hymen with a blunt object or penetration of an erect male organ. She stated that the sexual intercourse could have happened fourteen (14) hours before her examination of the victim. Sheila was tested positive for spermatocytes or sperm cells.

On April 20, 1995, Sheila identified accused Rolando Veloso as her assailant in a police line-up at the Baguio Police Station.

Accused Veloso's defense is alibi. He testified that on April 12, 1995, he was at the rattan furniture shop where he worked as a rattan maker. At about 4:30 p.m., he stopped working to count the rattan poles which arrived from the mountain. He finished at 5:00 p.m., and then gave rice and sardines to the two men who brought the rattan

poles. He later had dinner, rested for a while, read his bible and slept. The next day, April 13, 1995, five policemen came to his house and told him that he was one of the suspects in a rape case. He denied knowledge of the crime and agreed to go to the Baguio Police Station. They passed by the house of one Junadin Empinado, also a suspect. At the police station, they waited for Sheila who came accompanied by her father. Accused Veloso and Empinado were ordered to stand in front of Sheila who was then asked to point to the person who raped her. Sheila pointed to Empinado who just kept silent. They were both released but were told that they would be called again. Accused Veloso was again picked up by the police on April 20, 1995. He protested as Sheila had already identified Empinado as the culprit, but his brother prevailed upon him to go with the policemen. At the precinct, accused Veloso was brought inside an empty room. After a while, Sheila and SPO2 Romeo Lopez came in. Sheila was again asked to point to her assailant, but she did not say a word. She was asked five times but she merely looked down and continued to thumbsuck. Visibly irritated, SPO2 Lopez banged his gun on the table and told Sheila that he had a hard time apprehending the accused and she should cooperate. At that instance, Sheila immediately pointed to accused Veloso. He demanded an explanation from Sheila since she identified Empinado in their prior meeting. Sheila allegedly answered that she was just coached by her father. Accused Veloso was detained.

Barangay Captain Crisologo Cresencio testified that when the incident was reported to him, Sheila told him that she did not recognize her assailant as it was dark and they were new in the neighborhood and did not know anybody in the place. Another defense witness, Ricardo Camarillo, testified that on April 12, 1995 at about 6:00 p.m., he went to the Panigan Creek to catch frogs, passed by the house of accused Veloso and saw him pulling rattan poles. On April 20, 1995, he was near the creek catching fish when SPO2 Romeo Lopez arrived. He requested Camarillo to carry him to the other side of the creek because he was going to the house of accused Veloso. Lopez asked him if accused Veloso raped Sheila. He answered no and informed him that accused Veloso is a good boy. Camarillo admitted that the father of the accused requested him to testify.

On April 22, 1997, the trial court rendered judgment,[2] the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered finding Rolando Veloso y Baer GUILTY beyond reasonable doubt of the crime of RAPE as penalized under Article 335, paragraph 1, of the Revised Penal Code as amended by Republic Act No. 7659 and is hereby sentenced to RECLUSION PERPETUA. He is likewise sentenced to indemnify the victim Sheila Y. Besinga in the amount of FIFTY THOUSAND PESOS (P50,000.00) conformably with current case law.

SO ORDERED."

In this appeal, accused-appellant raises the following assignments of error:

1. The court a quo erred in not according weight and credence to the defenses of denial and alibi interposed by the accused-appellant notwithstanding the fact that the same is corroborated by a disinterested witness and the positive identification made by the victim is highly questionable and dubious.
2. The court a quo erred in finding the accused-appellant guilty of the crime of rape under Article 335 of the Revised Penal Code, as amended by R.A. 7659, and sentencing him to reclusion perpetua and to pay indemnity in the amount of P50,000.00.

Accused-appellant assails the testimony of Sheila due to its inconsistencies. First, he asserts that whereas complainant declared that on April 13, 1995 they were at the Baguio Police Station from 8:00 a.m. to 11:00 a.m., the examining physician, Dra. Vergara testified that she examined the victim at about 8:00 in the morning of the same day. Second, Sheila did not declare that he removed his pants and trousers which rendered impossible the commission of the rape. Third, while Sheila was tested positive for spermatozoa, she never testified that she felt

something "hot" inside her private organ when she was penetrated. Fourth, there was no finding that Sheila suffered external injuries, and yet she stated that she was forcibly carried inside the coffee plantation and that her hands were tied.

After a careful scrutiny of the evidence, we are convinced and so hold that the guilt of accused-appellant Veloso has been proven beyond reasonable doubt.

We find no reason to doubt the testimony of Sheila. No girl would concoct a story of sexual assault, undergo gynecologic examination, or subject herself and her family to the trauma and the embarrassment concomitant to criminal prosecution unless she speaks the truth.[3]

Sheila testified with candor and in a straightforward manner. Her narration of the sexual assault is clear and consistent. There is no iota of doubt that she was telling the truth. Thus:

"Q Now, while walking home after buying fish on April 12, 1995, was there anything that took place?

A Yes, sir.

Q Please tell the Honorable Court what was that that took place?

A Rape.

Q We will go back to specifics, Your Honor.

You said you were walking home?

A Yes.

Q What did you observe while walking home?

A I was surprised because somebody was following me.

Q When you observed that somebody was following you, what did you do?

A I looked behind me and aimed the flashlight at the face of that somebody who was following me.

Q Why, were you bringing flashlight that time?

A Yes, sir.

Q After aiming your flashlight at that person, what happened?

A When I was able to ask, he suddenly carried me.

Q Where did he bring you?

A Inside the coffee plantation.

Q When you arrived at the coffee plantation, what happened?

A He poked a knife at me.

Q Then, what happened?

A Then, he tied my hands.

Q After tying your hands, what did you do next?

A He let me lie down.

Q After letting you lie down, what did he do next?

A He then undressed me, sir.

Q After undressing you, what happened?

A He placed himself on top of me.

Q After placing himself on top of you, what happened next?

A He inserted his penis inside my vagina.

Q After inserting his penis in your vagina, what else did he do?

A He dressed me up.

x x x x x x x x

Q Now, when he inserted his penis in your vagina, did you not complain?

A I felt pain.

Q What I mean, did you not complain?

A I complained.

x x x x x x x x

Q Please describe to the court, when the accused was on top of you, what was he actually doing?

Q Please describe to the court, when the accused was on top of you, what was he actually doing?

A He inserted his penis inside my vagina.

Q How did you feel once his penis entered your vagina?

A I felt pain.

Q How long did the accused stay on top of you?

A Just very briefly, sir.

x x x x x x x x

Q Now, you said that after that, the accused dressed you?

A Yes, sir.

Q What do you mean? Can you describe to the court how did he dress you?

A Yes, sir. He put my dress on.

Q What else?

A He dressed me up and then he let me stand up.

Q After you stood up, what did you do?

A He left me.

Q How about you, what did you do after that?

A I went home.

Q And when you arrived home, what happened in your house?

A I told my father.

Q What did you tell your father?

A I told my father, "Pa, I was raped." [4]

Contrary to the contentions of the defense, the alleged inconsistencies in Sheila's testimony are inconsequential considering that they refer to trivial details which have nothing to do with the essential fact in the crime of rape which is carnal knowledge through force or intimidation.[5] Indeed, these minor inconsistencies are sometimes indicia of truth rather than badges of falsehood, for they erase any suspicion of a rehearsed testimony.[6] Thus, the lack of signs of external physical injuries did not signify no resistance by the complainant. Resistance need not be carried to the point of inviting death or sustaining physical injuries at the hands of the rapist.[7] This is specially true where the victim is a hapless child of tender age like the 9 year old Sheila. To be sure, the evidence shows that complainant ran back home crying and told her father that she has been raped right after the incident. Her reaction is certainly that of a child who has been hurt by a stranger.

Accused-appellant capitalizes on the testimony of Crisologo Cresencio, barangay captain, that when he investigated Sheila, she stated that she did not recognize her assailant. It is also stressed that the entries in the police blotter marked as Exhibits "2" and "3" allegedly do not show that Sheila identified accused-appellant as the perpetrator of the crime charged. There is no merit in this argument.

Sheila testified that when she felt that someone was stalking her, she turned around and beamed her flashlight on the face of the person following her. Hence, she was able to see the face of her assailant. It was the first time that she saw accused-appellant and she did not know his name. But this does not mean that she did not recognize the accused-appellant. On cross-examination, complainant was categorical on the matter:

"Q When did you meet the accused for the first time?

A When my father requested me to buy fish at Purok 6. When I was on my way to Purok 6, I already met him.

Q Before that, you have not seen this particular person, the/ accused?

A I saw him.

Q Where did you see him?

A He was relieving himself along the small road.

Q When did you see him relieving himself along the small road?

A When I was on my way to buy fish.

Q You were on your way to buy fish on April 12, 1995, is that correct?

A Yes, sir.

Q And that was the first time you allegedly saw the accused on April 12, 1995?

A Yes.

Q When you saw the accused for the first time on April 12, 1995, did you already know his name?

A Not yet.

Q When did you know for the first time the name of the accused?

A At the police station in Baguio.

x x x x x x x x

Q Now, is it not a fact that you also complained to the barangay captain of your place by the person of Crisologo Cresencio?

A Yes.

Q When did you complain to the barangay captain by the name of Crisologo Cresencio?

A The following day.

Q Before you complained to the office of the police at Baguio District, you first complained at the office of the barangay captain by the name of Crisologo Cresencio?

A Yes, sir."[8]

It cannot also be gainsaid that Sheila recognized accused-appellant when she first saw him near the coffee plantation. Consequently, we do not doubt that she was able to readily identify accused-appellant at the police station. The version of the defense that Sheila pointed to Junadin Empinado during the initial confrontation at the police station cannot be given credence. The entry in the police blotter for April 20, 1995, marked in evidence as Exhibit "B-3"[9], states that "when a police line-up was conducted, suspect was positively identified by victim Sheila Besinga," referring to herein accused-appellant Veloso. It also bears to stress that accused-appellant was detained immediately after he was identified by Sheila on said date. If it were true that Sheila had earlier pointed to Junadin Empinado as the criminal, it is perplexing why the police did not detain but even released him.

Moreover, there is nothing to show that Sheila was actuated by ill motive to testify falsely against accused-appellant. She did not know him before that fateful day of April 12, 1995. Her family had just transferred and they did not know anybody from the place. Her testimony is worthy of full faith and credence. So are the testimonies of Sheila's father and the arresting police officers. They have no reason to foist a falsehood.

Accused-appellant's defense hinges on alibi and denial. As the Court has oft pronounced, both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime.

The trial court correctly ruled that the prosecution failed to prove the age of the victim other than through her testimony and that of her father. Thus, in *People v. Vargas*,[10] it was held that:

"In the case at bar, however, no birth or baptismal certificate was presented to prove the age of the victim. Neither was there a showing that said documents were lost or destroyed to justify their non-presentation. The trial court should not have relied on the testimony of Cornelia as to her age nor on the testimony of her Aunt Margarita Quilang. Both testimonies are hearsay. Nor was it correct for the trial court to judge the victim's age by considering her appearance."

Hence, the trial court properly imposed the penalty of reclusion perpetua. However, it erred in awarding only indemnity *ex delicto* in the amount of P50,000.00. Pursuant to current jurisprudence, moral damages in the amount of P50,000.00 should likewise be awarded. The fact that complainant has suffered the trauma of mental, physical and psychological sufferings which constitute the bases for moral damages is too obvious to still require the victim's recital thereof at the trial, 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.[11]

WHEREFORE, the Decision of April 22, 1997 of Branch 11 of the RTC, 11th Judicial Region Davao City, finding accused-appellant guilty of rape is AFFIRMED with the MODIFICATION that accused-appellant is hereby adjudged to pay Sheila Besinga an additional amount of P50,000.00 as moral damages. Costs against the accused-appellant.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

[1] Original Records, p. 1.

[2] Penned by Judge Virginia Hofilena-Europa; Original Records, pp. 79-84.

[3] People v. Yamasito Vergel, G.R. No. 128813, October 4, 1999.

[4] TSN, July 6, 1995, pp. 5-10.

[5] People v. Efren Narido, G.R. No. 132058, October 1, 1999.

[6] People v. Salvatierra, 276 SCRA 55 (1997)

[7] People v. Soberano, 244 SCRA 467 (1995)

[8] TSN, July 6, 1995, pp. 14-16.

[9] Id., p. 2.

[10] 257 SCRA 603 (1996)

[11] People v. Yamasito Vergel, G.R. No. 128813, October 4, 1999.

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.