

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALEXANDER TAÑO Y CABALLERO, ACCUSED-APPELLANT.***G.R. No. 133872. May 05, 2000*

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-133872/>**PANGANIBAN, J.:**

The appellant cannot be convicted of the special complex crime of robbery with rape because the asportation was conceived and carried out as an afterthought and only after the rape has been consummated. Dwelling cannot be appreciated as an aggravating circumstance in this case because the rape was committed in the ground floor of a two-story structure, the lower floor being used as a video rental store and not as a private place of abode or residence.

The Case

This is an automatic review of the Decision[1] dated April 23, 1998 of the Regional Trial Court of Caloocan City, Branch 127, in Criminal Case No. C-53066, finding Accused-Appellant Alexander Taño y Caballero guilty beyond reasonable doubt of robbery with rape and imposing upon him the supreme penalty of death. The case arose out of an Information,[2] dated November 10, 1997, signed by Assistant City Prosecutor Salvador C. Quimpo, accusing the appellant of robbery with rape allegedly committed as follows:

"That on or about the 6th day of November, 1997 in Kalookan City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain and by means of force and intimidation employed upon the person of one AMY DE GUZMAN Y MAQUINANA, did there and then wilfully, unlawfully and feloniously take, rob and carry away the following articles, to wit:

Cash money ----- P5,000.00

Three (3) bracelets ----- 3,500.00

Two (2) rings ----- 5,000.00

One (1) pair of earrings ----- 2,000.00

One (1) Alba wristwatch ----- 1,500.00

TOTAL ----- P16,000.00

with the total amount of P16,000.00 belonging to one ANA MARINAY Y SICYAN; that in the course of said robbery, said accused, with the use of force and intimidation, did then and there wilfully, unlawfully and feloniously lie with and have sexual intercourse with said AMY DE GUZMAN Y MAQUINANA, against the latter's will and without her consent and with the use of a bladed weapon."

During his arraignment on November 26, 1997, appellant, assisted by his counsel de oficio, pleaded not guilty to

the charge.[3] After trial on the merits, the lower court promulgated the herein assailed Decision, the dispositive portion of which reads as follows:

"W H E R E F O R E the prosecution having established beyond an iota of doubt the guilt of Accused ALEXANDER TAÑO Y CABALLERO of the crime of Robbery with Rape, and considering the presence of the aggravating circumstance of dwelling without any mitigating circumstances to offset the same, this Court hereby sentences the Accused to suffer the maximum penalty of D E A T H with all the accessory penalties provided by law; to indemnify Victim AMY DE GUZMAN the amount of P50,000.00 and pay her actual damages of P2,687.65 and to restore to the victim her gold ring of undetermined amount as well as moral and exemplary damages in the total sum of P100,000.00; and to pay the costs."

The Facts

Version of the Prosecution

The solicitor general sums the evidence for the prosecution in this wise:[4]

"On November 6, 1997, at around 7:30 p.m., Amy de Guzman (Amy) was tending a Video Rental Shop owned by her employer and cousin, Ana Marinay (Ana) located at 153 Loreto Street, Morning Breeze [S]ubdivision, Caloocan City (Tsn., January 8, 1998, p. 3). Thereupon, accused-appellant Alexander Taño, a relative of Ana's husband Gerry Marinay (Gerry), arrived at said shop (ibid., p. 4). Alexander Taño then asked Amy about the time when Gerry would be coming home, to which she replied, 10:00 p.m. (id.). He then asked about the time when Ana would be coming home and Amy replied that she did not know (id.).

"Thereafter, but still on the same date, Alexander Taño kept on going in and out of the Video Shop, and on the last time that he went inside said shop, he jumped over the counter of the shop to where Amy was and seized the latter by placing one of his arms around Amy['s] neck, while his other hand held a knife which he poked at her neck (id., pp. 4-5).

"Terrified by the attack, Amy started shouting for help but Alexander Taño increased the volume of a karaoke which was on at the time to drown Amy's cries for help (id., p. 5).

"Alexander Taño then dragged Amy to the kitchen of the shop where, at knife point, he ordered the latter to undress and he thereafter started raping her (id., pp. 5-6).

"However, while Alexander Taño was raping Amy, somebody knocked at the door of the shop prompting the former to stop what he was doing and ordered Amy to put on her clothes (id., pp. 6-7).

"Alexander Taño then directed Amy to go upstairs to the second floor of the shop to change clothes as he will be taking her with him (id., p. 7). But suddenly thereafter, Taño pulled her down and punched her in the stomach thrice causing her to lose her balance (id.). Taño then started cursing her and again placed himself on top of her while poking a knife at her neck (id.). Amy then pleaded with Taño to just take anything inside the shop and to spare her life, to which Taño replied 'no, I will not leave you here alive.' (id.).

"But after a while and upon Amy's pleading, Taño put down his knife and while he was kissing Amy, the latter got hold of the knife which she surreptitiously concealed under the stairs (id.).

"Therafter, Taño became violent again and banged Amy's head on the wall causing the latter to lose consciousness (id., p. 9). When she regained consciousness she found herself and Taño inside the toilet of the shop and the latter again banged her head, this time on the toilet bowl, several times causing Amy to again lose consciousness (id., pp. 8-10).

"Thereafter, Taño went upstairs and looted the place of valuables belonging to Amy's employer, Ana. Amy, herself lost her ring, bracelet and wristwatch during the incident in question (id., p. 10).

"At about 9:00 o'clock p.m. of the same day, Amy's employer Ana arrived and found the shop in disarray with the 'karaoke' in full volume (Tsn., 13, 1998, pp. 2-4). After turning off the 'karaoke[']', Ana proceeded to the toilet where she found Amy bathed in blood (ibid., p.4).

"Ana immediately sought the help of Barangay officials of the place and Amy was brought to the 'MCU' Hospital where she was initially treated of her injuries (id., p. 5). Amy was, later on, transferred to Jose P. Reyes Memorial Medical Center (JPRMMC) where she was confined for four (4) days."

Version of the Defense

On the other hand, appellant's version of the incident is as follows:[5]

"x x x [O]n November 6, 1997, at around 7:40 p.m., he went to the house of his cousin Gerry Bautista Marinay at 113 Loreto St., Morning Breeze Subdivision, Kalookan City and upon arrival thereat he found therein Amy de Guzman alone which she greeted him because she knew that the accused was a frequent visitor thereof. Upon learning from her that Gerry was not around, accused proceeded to the kitchen to drink water and after he bought cigarettes at the nearby store, he returned to the shop and seated himself in front of Amy de Guzman's counter. After the lapse of five minutes he got bored and went out again to wait for the arrival of GERRY. After finishing his cigarette he returned to Amy and talked with her and learned that ANA was at her newly opened restaurant. After a while, the thought of stealing his cousin's valuables struck his mind owing to his dire need of cash/money. Thus, he approached Amy and held her hands and asked her to come with him because he badly needed money, to lead him to where his cousin was keeping his money and valuables. As to Amy's surprise [sic], she shouted and to stop her, the accused covered her mouth with his right hand but Amy put up a struggle and in the process they both fell down and rolled on the floor. Thence, the accused was able to subdue Amy and forcibly took her in the upstairs where he did the ransacking of the drawers while holding the private complainant's hand. However, she was able to free herself from his hold and ran downstairs to the kitchen where she tried to get hold [of] a knife but he was able to wrest with her. As the accused was rattled, he pushed Amy inside the comfort room and shoved her head against the tiles to mummify her. He took Amy's bag wherein he placed his loot consisting of 2 wrist watches, including Amy's Alba watch, a bracelet, clothes and hair blower as well as jewelry box containing five rings which he placed in his pocket, then he proceeded to his brother's house in Taytay. Upon arrival of the police and his cousin thereat he returned the jewelry box to the latter but the same was not presented in court, that no other jewelry was taken by him from the place except those already specified, muchless has he taken any cash money from his cousin Gerry Marinay, that he has a wife staying in Iloilo and he has a girlfriend here in Manila, that he never raped the private complainant Amy de Guzman and neither [had he] courted her prior to the incident. (TSN., March 3, 1998, pp. 2-9) (TSN., March 4, 1998, pp. 2-6)"

Ruling of the Trial Court

Assessing the testimony of the private complainant, the trial judge observed:[6]

"Verily this Court finds the forthright account of the incident by the private complainant whose small and slender physique was certainly no match to the tall well-built body of an ex-convict, to be candid, straightforward, spontaneous and frank which remained consistent and unwavering despite the rigid cross-examinations of the defense counsel wherein she narrated in detail the sexual assault with the use of a knife perpetrated by the accused against her.

Parenthetically this Court has observed the deportment of the private complainant at the witness stand and certainly she did not appear to have the callousness and shrewdness of a woman capable of imputing a heinous crime against the [a]ccused if the same is not true. Besides, the defense has not shown any evil motive or ill will on the part of the private complainant for testifying the way she did in this case."

The lower court accepted the judicial admission of the accused that he stole valuables belonging to private complainant and her employer, and then proceeded to determine "whether or not the prosecution evidence has sufficiently established the rape angle of the case."

"In fine, the [a]ccused having already admitted the robbery charge coupled with the fact that the prosecution has established with clear and convincing evidence [a]ccused's culpability for sexually assaulting the pri[v]ate complainant leaves no room for doubt of the guilt of the accused for the complex crime of robbery with (aggravated) rape[.]"

Furthermore, the trial court appreciated dwelling as an aggravating circumstance because the incident took place supposedly at the residence of private complainant's employer, "which doubles as a video rental shop." [7] Applying Article 63 of the Revised Penal Code as amended by RA 7659, it imposed the maximum penalty provided under Article 294 of the same Code as amended, which is death.

Thus, this automatic review by this Court. [8]

Issues

In his Brief, [9] Appellant Taño assigns only two errors or issues. These are:

"I

The lower court erred in not taking into consideration the testimonies of Dr. Godofredo Balderosa and Dr. Maria Redencion Bukid-Abella which negate the rape [charge] imputed against the accused.

II

The lower court erred in finding the accused guilty beyond reasonable doubt of the crime of robbery with rape despite the prosecution's insufficiency of evidence."

In criminal cases, an appeal throws the whole case open for review and the appellate court may correct such errors it may find in the appealed judgment, even if they have not been specifically assigned. [10] Hence, this Court likewise reviewed (a) the propriety of appellant's conviction of the special complex crime of robbery with rape and (b) the trial court's appreciation of dwelling as an aggravating circumstance. These two items will be discussed as the third and fourth issues.

The Court's Ruling

After a careful review of the evidence on record, the Court finds that (a) appellant is guilty of two separate crimes -- rape and robbery, (b) dwelling cannot be appreciated as an aggravating circumstance, and (c) the proper penalty for rape is reclusion perpetua, not death.

First Issue:

Evaluation of the Examining

Doctors' Testimonies

Appellant contends that the trial court failed to give due credence to the testimonies of Dr. Godofredo Balderosa and Dr. Ma. Redencion Bukid-Abella, who both examined and treated Amy de Guzman's physical injuries immediately after the incident. Both doctors similarly stated that the victim complained to them of physical assault and attempted rape only, not of consummated rape. [11] Additionally, the findings of NBI Medico-Legal Officer Aurea Villena were allegedly inconclusive as to whether there was sexual intercourse between the appellant and the victim. [12] Their testimonies supposedly bolster appellant's innocence of the rape charge.

Otherwise stated, appellant claims that the failure of Amy de Guzman to immediately disclose the rape to her examining physicians could only mean that she was not in fact sexually assaulted.

In many criminal cases, especially of rape, this Court has acknowledged that the vacillation of the victim in reporting the crime to the authorities is not necessarily an indication of a fabricated charge. Neither does it always cast doubt on the credibility on the complaining witness.[13] The initial reluctance of a young, inexperienced lass to admit having been ravished is normal and natural.[14] The Court takes judicial notice of the Filipina's inbred modesty and shyness and her antipathy in publicly airing acts which blemish her honor and virtue.[15] She cannot be expected to readily reveal the fact of her sexual violation to total strangers.

It is thus perfectly understandable and consistent with common experience that Amy initially tried to downplay the assault upon her chastity by telling the doctors that there was no consummation of the act. The following day, however, she was finally able to gather the courage to reveal the entire truth to her cousin-employer, Ana Marinay.[16] She also executed a Sworn Statement[17] before PO3 Jaime Basa, detailing how she had been raped and beaten by appellant. Four days later, she acceded to undergo a medico legal examination of her genital organ, which was conducted by Dra. Aurea Villena of the Jose R. Reyes Memorial Hospital, where she was confined.

Time-honored is the doctrine that no young and decent woman would publicly admit that she was ravished and her virtue defiled, unless such was true, for it would be instinctive for her to protect her honor.[18] No woman would concoct a story of defloration, allow an examination of her private parts and submit herself to public humiliation and scrutiny via an open trial, if her sordid tale was not true and her sole motivation was not to have the culprit apprehended and punished.[19] Thus, absent any credible imputation of ill motive on the part of the private complainant to falsely accuse the appellant of a heinous crime, her candid and consistent testimony should be given full faith and credit.[20] It is a basic rule, founded on reason and experience, that when a victim testifies that she has been raped, she effectively says all that is necessary to show that rape was indeed committed.[21]

In the case at bar, we find no reason to deviate from these doctrines. Amy de Guzman's straightforward and convincing testimony, which will be detailed later, bears no badge of material inconsistency which would bring doubt to its veracity. She stood firm on her tale throughout her court appearance. The trial judge observed her "to be candid, straightforward, spontaneous and frank x x x [and she] remained consistent and unwavering despite the rigid cross-examinations of the defense counsel x x x." [22]

Besides, no ill motive was imputed on her. Appellant offers us no plausible explanation why Amy de Guzman cried rape against him. We believe she did so in order to bring out the truth and to obtain justice.

Appellant's contention that the absence of genital and other injuries on Amy's body proves his innocence is unacceptable. Time and again, we have ruled that hymenal laceration is not an element of rape.[23] The victim need not sustain genital injuries, for even the slightest penetration of the labia by the male organ is equivalent to consummated rape.[24]

Besides, the examining physician satisfactorily explained the absence of lacerations on private complainant's genitalia:[25]

"x x x during the examination I found out that [the victim's] hymen is that of elastic type and so it is disten[s]ible and it could accommodate the penis without producing any genital injuries."

She elucidated that "[1]aceration only occur[s] on non-elastic hymen because non-elastic hymen cannot accommodate the size of the penis without producing injury but hers is that of the elastic type, like rubber band that could stretch and turn back into its proper size." [26]

Second Issue: Sufficiency of Prosecution Evidence

Time-tested is the guiding principle that when a victim cries rape, she says in effect all that is necessary to show that the crime was inflicted on her; and so long as her testimony meets the test of credibility, the accused may be

convicted on the basis thereof.[27] We have no reason in the instant case to deviate from this settled jurisprudence.

Rape is committed by having carnal knowledge of a woman under any of the following instances: (1) force or intimidation is used, (2) the woman is deprived of reason or otherwise unconscious, or (3) she is under twelve years of age.[28] We find the necessary elements of rape duly established by Private Complainant Amy de Guzman when she candidly testified thus:[29]

"a Then Alexander Taño kept coming in and out of the video rental shop and last time he went in, he slammed the door and jumped over the counter where I was and strangled me while his other hand is holding a knife, the knife was poked at the right side of my neck.

q What else transpired thereafter?

a And he took the knife from the right hand and held it with his left hand and turned the volume of the karaoke louder so that my voice will not be heard since I was shouting.

q When the accused poked the knife, what did you feel?

a 'Natakot po.'

q What happen[ed] next Ms. Witness?

a Then after turning louder the volume of the karaoke to down my voice, he took me to the kitchen.

COURT:

q How [were] you taken to the kitchen?

'Paano ka dinala sa kusina?'

a Sakal-sakal po niya ako.

x x x x x x x x

a x x x and once in the kitchen he made me lay my back against the stairs and told me to take[] off my pants. Due to fright I did as told and the knife was then poked at my stomach.

q You said you removed x x x your pants, where [sic] you wearing your panty at that time?

a Yes, Sir. I was wearing one.

q What happened to that panty?

a He told me to take off my pants, in doing so I took off completely together with my panty.

q Then, what happened next?

a And once [I laid] down on the floor, he tried x x x to make me spread [-] eagle my legs and in that process he knelt between my legs then took off his pants.

q And after that, what happen[ed] next after accused removed his pants x x x?

a Then after taking off his pants, he lay atop me and I felt he was forcing his penis in and [while] in that process the knife was still poked at my left neck.

q When he inserted his penis into your private parts, what did you feel?

a Pain. (Masakit po).

q After inserting his penis into your private parts, what did he do?

a He kept on pumping."

As noted earlier, the trial judge, who was able to observe firsthand the conduct and demeanor of the witnesses while testifying, perceived Amy to be candid, straightforward, spontaneous and frank. Said witness was also found to have been consistent and unwavering despite the rigid cross-examination of the defense counsel. We note from the transcript of stenographic notes that the judge herself had posed additional clarificatory questions upon Amy.[30] Throughout her testimony, she indeed remained consistent as well as convincing.

Of long-standing is the rule that findings of trial courts, especially on the credibility of witnesses, are entitled to great weight and accorded the highest respect by the reviewing courts, unless certain facts of substance and value were overlooked or misappreciated such as would alter the conviction of the appellant.[31] Trial judges are in a better position to assess the behavior of witnesses and to detect whether they are telling the truth or not because they could directly observe them in court.[32] The reviewing magistrate, on the other hand, has only the cold and impersonal records of the proceedings to rely upon.

With respect to the robbery, its elements are: (1) the subject is personal property belonging to another; (2) there is unlawful taking of that property, (3) the taking is with the intent to gain, and (4) there is violence against or intimidation of any person or use of force upon things.[33] There is no question on the unlawful taking of valuables belonging to Amy and her employer, Ana Marinay. Appellant openly admitted in court the unlawful asportation, thus:

"q [W]ere you able to get some valuables from the room of [the] Bautista[34] couple?

a [Y]es sir.

q [W]hat are these valuables?

a I remember the jewelry box containing jewelry, clothes and other valuables [sic] things sir."[35]

x x x x x x x x

"q [W]here did you get that jewelry box containing rings?

a [I]nside the locker or aparador sir.

q [A]fter having taken all these jewelries and clothes you placed them all in a blue bag and left the place?

a [T]he jewelry box was placed inside my pocket. I did not place in the blue bag sir.

q [Y]ou mentioned five rings, Alba wrist watch owned by rape victim [A]my de[G]uzman, you also mentioned other jewelries, what other jewelries aside from the jewelry that you took in the house of the couple Gerry [and Ana] Bautista?

[A]tty. [C]risostomo

[O]bjection he did not mention other jewelries. He specified one bracelet and one wrist watch.

Court

[W]itness may answer.

Witness

a [T]here were sir.

Fiscal

q [W]hat are they?

Witness

a [C]lothes and a hair blower because I was in a hurry." [36]

During his arrest, the following stolen valuables were found in his bag: P5,000 cash, two bracelets, two rings and a pair of earrings, which Ana Marinay identified as belonging to her; and one wristwatch and a bracelet belonging to Amy de Guzman.[37] Unrebutted is the presumption that a person in possession of stolen personal effects is considered the author of the crime.

Third Issue:

Crime(s) Committed

We do not, however, agree with the trial court that appellant is guilty of the special complex crime of robbery with rape. This felony contemplates a situation where the original intent of the accused was to take, with intent to gain, personal property belonging to another; and rape is committed on the occasion thereof or as an accompanying crime.[38]

Such factual circumstance does not obtain here. As related by Private Complainant Amy de Guzman, accused-appellant suddenly jumped over the counter, strangled her, poked a knife at the left side of her neck, pulled her towards the kitchen where he forced her to undress, and gained carnal knowledge of her against her will and consent. Thereafter, he ordered her to proceed upstairs to get some clothes, so he could bring her out, saying he was not leaving her alive. At this point, appellant conceived the idea of robbery because, before they could reach the upper floor, he suddenly pulled Amy down and started mauling her until she lost consciousness; then he freely ransacked the place. Leaving Amy for dead after repeatedly banging her head, first on the wall, then on the toilet bowl, he took her bracelet, ring and wristwatch. He then proceeded upstairs where he took as well the jewelry box containing other valuables belonging to his victim's employer.

Under these circumstances, appellant cannot be convicted of the special complex crime of robbery with rape. However, since it was clearly proven beyond reasonable doubt that he raped Amy de Guzman and thereafter robbed her and Ana Marinay of valuables totaling P16,000, he committed two separate offenses -- rape with the use of a deadly weapon and simple robbery with force and intimidation against persons.

Appellant may well be convicted of the separate offenses of rape and robbery notwithstanding the fact that the offense charged in the Information is only "Robbery with Rape." In a similar case, *People v. Barrientos*, [39] this Court held:

"x x x Controlling in an Information should not be the title of the complaint, nor the designation of the offense charged or the particular law or part thereof allegedly violated, these being, by and large, mere conclusions of law made by the prosecutor, but the description of the crime charged and the particular facts therein recited. Neither is it the technical name given to the offense by the prosecutor, more than the allegations made by him, that should predominate in determining the true character of the crime. There should also be no problem in convicting an accused of two or more crimes erroneously charged in one information or complaint, but later proven to be independent crimes, as if they were made the subject of separate complaints or informations."

In the case at bar, we find the Information filed against appellant to have sufficiently alleged all the elements necessary to convict him of the two separate crimes of rape and robbery. Needless to state, appellant failed, before his arraignment, to move for the quashal of the Information which appeared to charge more than one offense. He

has thereby waived any objection and may thus be found guilty of as many offenses as those charged in the Information and proven during the trial.[40]

Fourth Issue:

Dwelling as an

Aggravating Circumstance

Dwelling aggravates a felony when the crime was committed in the residence of the offended party and the latter has not given any provocation.[41] It is considered an aggravating circumstance primarily because of the sanctity of privacy that the law accords to human abode.[42] As one commentator puts it, one's dwelling place is a sanctuary worthy of respect; thus, one who slanders another in the latter's house is more severely punished than one who offends him elsewhere.[43] According to Cuello Calon, the commission of the crime in another's dwelling shows worse perversity and produces graver alarm.[44]

In the case at bar, the building where the two offenses were committed was not entirely for dwelling purposes. The evidence shows that it consisted of two floors: the ground floor, which was being operated as a video rental shop, and the upper floor, which was used as a residence. It was in the video rental shop where the rape was committed. True, the victim was dragged to the kitchen and toilet but these two sections were adjacent to and formed parts of the store. Being a commercial shop that caters to the public, the video rental outlet was open to the public. As such, it is not attributed the sanctity of privacy that jurisprudence accords to residential abodes. Hence, dwelling cannot be appreciated as an aggravating circumstance in the crime of rape.

Proper Penalties

Under Article 335, paragraph 3, of the Revised Penal Code, as amended, "[w]henever the crime of rape is committed with the use of a deadly weapon x x x the penalty shall be reclusion perpetua to death." Under Article 63 of the same Code, reclusion perpetua is the appropriate penalty imposable upon accused-appellant for the crime of rape, inasmuch as no aggravating circumstance was proven. Pursuant to current jurisprudence, the award of P50,000 as indemnity ex delicto is mandatory upon the finding of the fact of rape.[45] Moral damages may additionally be awarded to the victim in such amount as the Court deems just, without the need of pleading or proof of the basis thereof.[46] In rape cases, it is recognized that the victim's moral injury is concomitant with and necessarily results from the odiousness of the crime to warrant the grant of moral damages.[47] In the instant case, we deem it appropriate to grant Amy de Guzman P30,000 as moral damages. However, since no aggravating circumstance attended the rape, no exemplary damages may be awarded.[48]

For the crime of robbery committed under the circumstances of this case, the Code provides the penalty of prision correccional in its maximum period to prision mayor in its medium period.[49] Further, the appellant is also entitled to the benefits of the Indeterminate Sentence Law. For the actual damages incurred by Amy de Guzman in connection with her physical injuries, the lower court awarded P2,687.65, based on receipts submitted by her. A recomputation of the receipts, however, reveals a total of only P2,487.65. We, therefore, reduce the award accordingly. The trial court also ordered appellant "to restore to the victim her gold ring of undetermined amount," which was supposedly unrecovered. Upon an examination of the records, we note that the Information alleges the robbery of the following items: P5,000 cash, three (3) bracelets, two rings, one pair of earrings and one (1) Alba wristwatch. Except for the cash money, which has already been returned to Ana Marinay by the police, the other items were offered as evidence[50] and submitted to the custody of the trial court. Upon Motion[51] of Ana Marinay and Amy de Guzman, the release to them of these items was ordered by this Court via a Resolution issued on December 7, 1999. The stolen items are therefore all accounted for. Thus, we find no sufficient basis for the trial court's order for the appellant to return a "gold ring of undetermined amount."

In robbery and other common crimes, the grant of moral damages is not automatic, unlike in rape cases. The rule that a claim for moral damages must be supported by proof still stands. It must be anchored on proof showing that the claimant experienced moral suffering, mental anguish, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation or similar injury.[52] The private complainants, however, did not present any evidence of their moral sufferings as a result of the robbery. Thus, there is no basis for the grant of moral damages in connection with the robbery.

WHEREFORE, the assailed Decision is hereby MODIFIED. Accused-Appellant Alexander Taño y Caballero is found guilty of two separate offenses: rape and robbery. For the crime of rape, appellant is hereby SENTENCED to reclusion perpetua and to pay Private Complainant Amy de Guzman P50,000 as indemnity ex delicto and P30,000 as moral damages. For the crime of robbery, appellant is sentenced to an indeterminate penalty of two (2) years and four (4) months of prision correccional, as minimum, to eight (8) years of prision mayor, as maximum; and to pay De Guzman P2,487.65 as actual damages.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon Jr., JJ., concur.

Melo, Kapunan, and Purisima, JJ., no part-abroad.

[1] Penned by Judge Myrna Dimaranan Vidal; rollo, pp. 20-33.

[2] Rollo, p. 5; records, p.1.

[3] Records, p. 7.

[4] Brief for the Appellee, pp. 3-5; rollo, pp. 95-97. The Brief was signed by Sol. Gen. Ricardo P. Galvez, Asst. Sol. Gen. Maria Aurora P. Cortes and Solicitor Ronald B. de Luna.

[5] Appellant's Brief, pp. 7-8; rollo, pp. 50-51. Said Brief was signed by Attys. Arceli A. Rubin, Teresita S. de Guzman and Josephine M. Advento-Vito Cruz of the Public Attorney's Office.

[6] Assailed Decision, p. 9; rollo, p. 28.

[7] Assailed Decision, p. 12; rollo, p. 31.

[8] This case was deemed submitted for resolution on November 5, 1999, upon receipt by this Court of the appellant's Reply Brief.

[9] P. 1; rollo, p. 44.

[10] *People v. Llaguno*, 285 SCRA 124, 147, January 28, 1998. See also *People v. Atop*, 286 SCRA 157, 174, February 10, 1998.

[11] Appellant's Brief, pp. 9-11, citing TSN, January 20, 1998, pp. 9-10, and TSN, February 18, 1998, p. 12.

[12] *Ibid.*, pp. 12-15, citing TSN, February 4, 1998, pp. 11-13.

[13] *People v. Cabel*, 282 SCRA 410, December 4, 1997; *People v. Escobar*, 281 SCRA 498, November 6, 1997; *People v. Fuensalida*, 281 SCRA 452, November 6, 1997; *People v. Perez*, 270 SCRA 526, March 26, 1997.

[14] *People v. Del Rosario*, 282 SCRA 178, November 18, 1997.

[15] *People v. Alfeche*, 294 SCRA 352, August 17, 1998; *People v. Sabalones*, 294 SCRA 751, August 31, 1998.

[16] TSN, January 13, 1998, p. 7.

[17] Records, p. 2 et seq.

[18] *People v. Auxtero*, 289 SCRA 75, April 15, 1998.

[19] See *People v. Escobar*, 281 SCRA 498, November 6, 1997; *People v. Antipona*, 274 SCRA 328, June 19, 1997; *People v. Ramirez*, 266 SCRA 335, January 20, 1997.

- [20] *People v. Abrecinoz*, 281 SCRA 59, October 17, 1997; *People v. Escobar*, *supra*.
- [21] *People v. Garcia*, 281 SCRA 463, November 6, 1997; *People v. Cabel*, *supra*.
- [22] *Assailed Decision*, p. 9; *rollo*, p. 28.
- [23] *People v. Escobar*, *supra*; *People v. Zaballero*, 274 SCRA 627, June 30, 1997; *People v. Garcia*, 288 SCRA 382, March 31, 1998; *People v. Tirona*, 300 SCRA 431, December 22, 1998.
- [24] *People v. Borja*, 267 SCRA 370, February 3, 1997.
- [25] TSN, February 4, 1998, p. 8.
- [26] *Ibid.*, p. 11.
- [27] *People v. Garcia*, *supra*; *People v. Erardo*, 277 SCRA 643, August 18, 1997; *People v. Butron*, 272 SCRA 352, May 7, 1997.
- [28] *People v. Pili*, 289 SCRA 118, April 15, 1998.
- [29] TSN, January 8, 1998, pp. 4-6.
- [30] See TSN, January 12, 1998, pp. 14-15.
- [31] *People v. Sumalpong*, 284 SCRA 464, January 20, 1998; *People v. Correa*, 285 SCRA 679, January 30, 1998; *People v. Quinao*, 269 SCRA 495, March 13, 1997; *People v. Arellano*, 282 SCRA 500, December 5, 1997.
- [32] *People v. Navales*, 266 SCRA, 569, January 23, 1997; *People v. Dinglasan*, 267 SCRA 26, January 28, 1997; *People v. Daraman*, 294 SCRA 27, August 7, 1998.
- [33] *People v. Mendoza*, 284 SCRA 705, January 23, 1998; *People v. Gungon*, 287 SCRA 618, March 19, 1998.
- [34] Should be "Marinay."
- [35] TSN, March 4, 1998, p. 4.
- [36] TSN, March 4, 1998, pp. 8-9.
- [37] TSN, January 13, 1998, p. 10.
- [38] *People v. Barrientos*, 285 SCRA 221, 241, January 28, 1998; *People v. Cruz*, 203 SCRA 682, 697, November 18, 1991; *People v. Faigano*, 254 SCRA 10, February 22, 1996.
- [39] *Supra*, pp. 244-245, per Vitug, J.
- [40] *People v. Manalili*, 294 SCRA 220, August 14, 1998; *People v. Bugayong*, 299 SCRA 528, December 2, 1998.
- [41] *People v. Paraiso*, GR No. 127840, November 29, 1999; *People v. Molina*, GR No. 129051, July 28, 1999.
- [42] *People v. Monsayac*, GR No. 126787, May 24, 1999; *People vs. Parazo*, 272 SCRA 512, May 14, 1997.
- [43] Aquino, *Revised Penal Code Annotated*, Vol. I, 1987 ed., p. 315.
- [44] *Ibid.*
- [45] *People v. Maglente*, 306 SCRA 546, 578, April 30, 1999; *People v. Penaso*, GR No. 121980, February 23, 2000.
- [46] *People v. Prades*, 293 SCRA 411, July 30, 1998; *People v. Arizapa*, GR No. 131814, March 15, 2000.
- [47] *People v. Arizapa*, *ibid.*
- [48] See Art. 2230, Civil Code; *People v. De Guzman*, 265 SCRA 228, 247, December 2, 1996.
- [49] Art. 294, no. 5, RPC.
- [50] Exhs. "E," "E-1," "E-2" (3 bracelets); "E-3," "E-4" (2 rings); "E-5" (earrings); and "E-6" (wristwatch)
- [51] *Rollo*, p. 81.
- [52] *People v. Sumalpong*, *supra*; *People v. Adora*, 275 SCRA 441, July 14, 1997.

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