

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. BENJAMIN FABIA ALIAS “BENTONG,” APPELLANT.

G.R. No. 134764. June 26, 2001

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-134764/>

PANGANIBAN, J.:

The victim’s testimony, if positive and credible, is sufficient to sustain a conviction for rape. As a rule, the trial court’s assessment of the credibility of witnesses and their testimonies will be upheld on appeal, absent any fact or circumstance of weight and substance that may have been overlooked, misapprehended or misapplied.

The Case

Benjamin Fabia alias “Bentong” appeals the July 7, 1998 Decision[1] of the Regional Trial Court (RTC) of Urdaneta City, Pangasinan (Branch 46), in Criminal Case No. U-9530, finding him guilty of rape and sentencing him to reclusion perpetua.

In an Information[2] dated February 11, 1998, Third Assistant Provincial Prosecutor Noel C. Bince charged appellant with rape allegedly committed as follows:

“That on or about September 22, 1997, in the evening at barangay Bolaoen East, Municipality of Sison, Province of Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and felon[i]ously have sexual intercourse with Janet T. Ocumen, a minor seven years old and accused’s step-granddaughter, against her will and without the consent of said Janet T. Ocumen, to her damage and prejudice.

“CONTRARY to Art. 335 of the Revised Penal Code, in relation with R.A. 7659, as amended.”

On his arraignment on March 16, 1998, appellant, assisted by Atty. Danilo C. Bumacod, pleaded not guilty.[3] After trial in due course, Judge Modesto C. Juanson rendered the assailed Decision, the dispositive portion of which reads as follows:

“WHEREFORE, finding BENJAMIN FABIA GUILTY beyond reasonable doubt of the crime of rape, under Article 335 of the Revised Penal Code, in relation to Republic Act 7659, the Court sentences Benjamin Fabia to suffer the penalty of RECLUSION PERPETUA; ordering him to pay Janet Ocumen the sum of P50,000.00 as moral damages and P20,000.00 for exemplary damages and other accessory penalties.”[4]

In view of the penalty involved, the appeal was filed directly with this Court.[5]

The Facts

According to the Prosecution

In the People’s Brief,[6] the Office of the Solicitor General presents the prosecution’s version of the facts as follows:

“Seven-year old Janet Ocumen [was] a Grade I student at the Bolaoen East Elementary School in Sison,

Pangasinan (TSN, April 20, 1998, pp. 3-4). On September 22, 1997, after her school dismissal at 5:00 p.m., Janet stopped by the house of her friends, brothers Mario and Bryan Olpindo, to play with them and watch television (TSN, April 13, 1998, pp. 4-5). About an hour later, Janet announced that it was time for her to leave (Ibid., p. 5). Accompanied by Mario and Bryan, Janet then headed for home (Ibid.).

“On their way, they met appellant, Janet’s step-grandfather, who was also known as Bentong (Ibid., pp. 5-6). With a trace of alcohol in his breath, appellant told Mario and Bryan that he would be the one to bring Janet home (Ibid., pp. 6-7). Thus, Mario and Bryan bade Janet goodbye and went back home (Ibid., p. 7).

“Appellant, however, did not immediately bring Janet home (TSN, April 30, 1998, p. 3). Instead, he brought her to a dike, where he forced her to lie down, and then removed her shorts (Ibid.). Unmindful of the pain he would cause, appellant inserted his penis, then his finger, into Janet’s vagina (Ibid., p. 4). Apparently satisfied, appellant hurriedly stood up and warned Janet not to tell anybody what he had done (TSN, May 14, 1998, p. 2). He then brought Janet home (Ibid.).

“Upon Janet’s arrival at home, Rosela, her mother, [then] proceeded to change her daughter’s clothes (Ibid., p. 10). Rosela noticed that Janet’s uniform was wet and her shorts were missing (Ibid., pp. 10-12). Asked about this, Janet revealed to her mother that her Lolo Bentong made her lie on the dike, undressed her, and then sexually abused her (Ibid., pp. 9, 11). She then accompanied her mother to the back of their house, where a little while earlier, just before entering their house, she had left her shorts (Ibid.) Rosela got her daughter’s shorts which, like the latter’s uniform, was wet and soiled (Ibid.).

“After recovering from the shock caused by Janet’s revelation, Rosela informed her husband Domingo about what appellant, his stepfather, had done to their daughter (Ibid., p. 14). With grief and anger in their hearts, Domingo and Rosela reported the matter to the barangay captain, and then filed a complaint against appellant before the police authorities at the Municipal Hall in Sison, Pangasinan (Ibid., pp. 14-15).

“On September 26, 1997, Janet submitted herself to medical examination. The internal examination conducted by Dr. Godofredo G. Garcia showed that Janet had a “fresh laceration at 6° and 9° of the perineum” (TSN, April 15, 1998, p. 3). Her hymen, which could hardly admit Dr. Garcia’s small finger, was still intact (Ibid., pp. 3-4).

According to the Defense

The trial court summarized the evidence for the defense as follows:

“The defense claimed that: Benjamin Fabia, 31 years old, married, [a] farmer and a resident of Bolaoen East, Sison, Pangasinan, is married to Corazon Ocumen-Fabia, whose son, Domingo Ocumen, is the father of Janet Ocumen, complaining witness in this case. Benjamin is the 2nd husband of Corazon. The children of Corazon in her first marriage are at odds with Benjamin, possibly because of their age gap, Corazon is 50 while Benjamin is 31. Principally, the reasons why Janet Ocumen’s parents filed this case against Fabia, are the following:

- ‘1. The children of Corazon wanted to break the relationship between Benjamin Fabia and Corazon Fabia;
- ‘2. Domingo Ocumen and his wife refused to receive words of advice from Benjamin, and on the contrary spouses Domingo always uttered bad words against Benjamin;
- ‘3. Relatives of the late husband of Corazon disliked [Fabia] very much x x x.

“Benjamin Fabia had professed innocence, and denied the victim’s accusation. Benjamin contended that on 22 September 1997 at about 3:00 [p.m.], he was at their farm weeding grasses up to 6:00 [p.m.] Benjamin noticed the coming rain. He decided to go home. On his way home, he met Janet with two other children who were also going home. Janet’s house is near his house about 10 meters away. Janet was walking ahead of him about two (2)

meters apart. When they reached their respective houses, he accompanied Janet up to the porch of her house. Upon seeing her parents, He even told them, '[H]ere's your daughter, - and if she will encounter [a] problem, you will not shoulder [the] expenses.' Benjamin Fabia in effect was telling the Court that nothing happened between him and Janet on September 22, 1997 at about 6:00 [p.m.] at the ricefield or anywhere else. This was corroborated by Corazon Fabia and Maura Ramos, defense witnesses.

"The defense presented the following witnesses, namely: Maura Ramos, Corazon Fabia, and Benjamin Fabia and closed its case." [7]

Trial Court's Ruling

Rejecting appellant's defense, the court a quo ruled thus:

"Janet's declaration in Court rings true x x x throughout. Her positive and categorical testimonies that Fabia inserted into her vagina his penis prevails and outweighs Fabia's declaration of innocence and denial of Janet's accusation. The Court is not persuaded that the motives behind the filing of this case was the hatred and resentment of the children of Corazon Fabia and relatives of the first husband of Corazon. A child, 7 years old, could not be instigated to falsely testify against Fabia." [8]

That the victim's hymen was still intact was of no moment. Citing jurisprudence, the trial court held that it was enough that appellant's penis had touched her vagina.

Assignment of Error

In his Brief, appellant imputes this sole error to the trial court:

"The Court a quo gravely erred in finding that the guilt of the accused-appellant for the crime charged has been proven beyond reasonable doubt." [9]

The Court's Ruling

The appeal is devoid of merit.

Main Issue:

Sufficiency of Prosecution Evidence

In the review of rape cases, jurisprudence has laid down the following guiding principles:

"(a) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, though innocent, to disprove the charge;

"(b) considering that, in the nature of things, only two (2) persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and

"(c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense." [10]

In the appeal before us, the prosecution's case is anchored on the testimony of the purported rape victim, seven-year-old Janet Ocumen.

Credibility of Complainant

The court a quo gave credence to the testimony of complainant that appellant had raped her. Finding it clear, consistent and cohesive, we sustain the trial court's assessment. Janet testified in this wise:

"PROS. ESPINOZA

Q

On your way to your house you met your step-grandfather Benjamin Fabia alias Bentong?

A

Yes, sir.

Q

And your step-grandfather Benjamin Fabia alias Bentong told Mario that he will accompany you home?

A

Yes, sir.

Q

And because of that Mario and his brother Bryan returned to their house?

A

Yes, sir.

Q

And you went with your step-grandfather Benjamin Fabia alias Bentong?

A

Yes, sir.

Q

While you [were] on your way to your house what did your step-grandfather Benjamin Fabia alias Bentong do if any?

A

He let me lie down on a dike (pilapil) and undressed me and abused me (ginaraw).

Q

When you said you were abused (ginaraw) by your step-grandfather Benjamin Bentong[,] what did he do particularly?

A

He placed his penis in my vagina and he also placed his finger in my vagina.

x x x x x x x x

Q

When you said your step-grandfather Benjamin Bentong placed his penis in your vagina do we understand that his penis [was] inside your vagina?

A

Yes, sir.

Q

How about the finger of your step-grandfather[,] was it placed inside your vagina?

A

Yes, sir.

Q

When you[r] step-grandfather Benjamin Bentong placed his penis inside your vagina[,] what happened to your vagina?

A

(The witness did not answer)

COURT:

Q

Where is your vagina?

A

Here, sir. (witness pointing to her vagina).

Q

When your step-grandfather placed his penis inside your vagina, what did you feel in your vagina?

A

(Witness did not answer)

x x x x x x x x

PROS. ESPINOZA:

Q

When your step-grandfather placed his penis inside your vagina, [was] your vagina painful?

A

Yes, sir.

Q

When your step-grandfather Benjamin Fabia placed his finger inside your vagina, [was] it painful?

A

It [was] painful, sir.

Q

When your step-grandfather Benjamin Fabia ha[d] his penis inside your vagina, what did he do?

A

(Witness did not answer).”[11]

“Q

After your lolo Bentong put your finger inside your vagina, he did not do anything anymore?

A

None, sir.

Q

He stood up?

A

Yes, sir.

Q

And he told you not to tell x x x anybody what happened?

A

Yes, sir.”[12]

x x x x x x x x

“Q

You said that when your mother was changing your uniform, she observed that you [had] no short pant and she asked you why?

A

I told my mother that my grandfather Bentong met me and then he removed my [short pants] and then ginaraw.

Q

What do you mean when you said ginarawnac?

COURT:

Q

When you mean ginaraw, he inserted his penis [in]to your vagina?

A

Yes, sir.”[13]

Though there were instances during her testimony when Janet was seemingly reticent – after all, she was only seven years old when she testified -- certitude and consistency marked her narration of the rape incident.

As a rule, the findings of the trial court on the credibility of witnesses and their testimonies are entitled to the highest respect and will not be disturbed on appeal, absent any clear showing that it overlooked, misunderstood or misapplied some weighty and substantial facts or circumstances that would have affected the result of the case. Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial court is deemed to have been in a better position to weigh the evidence.[14] In the appeal before us, we find no reason to deviate from this rule.

Unruptured Hymen

To impugn the credibility of complainant, appellant asserts that the report on the physical examination performed on her contravened her accusation. He insists that there was no logical explanation for the fresh lacerations found on her vagina, inasmuch as the alleged rape happened four days earlier. He stresses that her hymen was still intact, contrary to her claim of penile penetration.

We are not persuaded. It must be stressed that a broken hymen is not an essential element of rape. In *People v. Tirona*,^[15] we ruled as follows:

“As for the intact hymen, this is no proof that no rape had been committed. A broken hymen is not an essential element of rape, not even where the victim is an innocent child x x x. As the trial court correctly observed: ‘The fact that the hymen has not been lacerated is of no moment. The victim being of tender age, the penetration of the male organ could go only as deep as the labia. In any case, for rape to be committed, full penetration is not required. It is enough that there is proof of entrance of the male organ within the labia or pudendum of the female organ. Even the slightest penetration is sufficient to consummate the crime of rape. Perfect penetration, rupture of the hymen or laceration of the vagina [is] not essential for the offense of consummated rape. Entry, to the least extent, of the labia or lips of the female organ is sufficient. Remaining a virgin does not negate rape.’ (Italics supplied.)

In the case before us, the testimony of complainant sufficiently established that appellant’s penis had touched her vagina, and that she had actually felt it penetrate her.

Alleged Improper Motive

Appellant further submits that the rape charge was instituted at the instigation of complainant’s parents, who had allegedly been at odds with him. He contends that the accusation was a ruse to separate him from his much older wife, complainant’s grandmother.

We do not agree. Granting that bad blood existed between appellant and complainant’s parents, it is unfathomable for the latter to concoct a story about the defloration of their very own seven-year-old daughter; and, in the process, subject her to the psychological, social, mental and emotional trauma brought about by a life-scarring public trial. Indeed, there could have been other ways to ruin the marriage of appellant and his wife without sacrificing Janet’s well being in the process. Likewise, the fact that the rape case was filed against appellant only after five years of his marriage with complainant’s grandmother renders his imputation of ill motive even more absurd.^[16]

In view of the identification by complainant of appellant as her rapist, the latter’s denial of any wrongdoing, unsubstantiated by convincing evidence, must fail. Indeed, Janet’s clear, consistent and cohesive testimony suffices to prove his culpability for rape.

However, we agree with the solicitor general that a modification of the assailed Decision as regards the civil indemnity is in order. In the light of current jurisprudence,^[17] appellant should be ordered to pay P50,000 as civil indemnity, which is separate from the award of moral damages granted by the trial court. There being no aggravating circumstances proven, the exemplary damages awarded have no legal basis.

WHEREFORE, the appeal is hereby DENIED and the assailed Decision AFFIRMED, with the MODIFICATION that appellant is further ORDERED to pay P50,000 as indemnity ex delicto, and the award of exemplary damages is DELETED. Costs against appellant.

SO ORDERED.

Melo, (Chairman), Vitug, Gonzaga-Reyes, and Sandoval-Gutierrez, JJ., concur.

[1] Rollo, pp. 28-33; records, pp. 143-148; penned by Judge Modesto C. Juanson.

[2] Rollo, p. 9; records, p.1.

[3] Records, p. 62.

[4] Rollo, p. 33, records, p. 148.

[5] The case was deemed submitted for decision upon receipt by the Court of Appellee's Brief signed by Solicitor General Ricardo P. Galvez, Assistant Solicitor General Carlos N. Ortega, Assistant Solicitor General Karl B. Miranda and Solicitor Alma Valerie C. Soriano, on April 5, 2000. The filing of the Reply Brief was deemed waived, as none had been submitted within the reglementary period. The Brief for Appellant Benjamin Fabia -- signed by Attys. Arceli A. Rubin, Amelia C. Garchitorena and Alteza A. Añoso of the Public Attorney's Office -- had earlier been received by the Court on November 19, 1999.

[6] Rollo, pp. 92-94.

[7] RTC Decision, pp. 3-4; rollo, pp. 75-76. Appellant's Brief does not give a detailed factual statement.

[8] RTC Decision, pp. 5-6; rollo, pp. 32-33.

[9] Rollo, p. 65.

[10] People v. Sta. Ana, 291 SCRA 188, 190, June 26, 1998; People v. Ramirez, 266 SCRA 335, January 20, 1997; People v. Guamos, 241 SCRA 528, February 21, 1995.

[11] TSN, April 30, 1998, pp. 3-5.

[12] TSN, May 14, 1998, p. 2.

[13] TSN, May 18, 1998, p. 2.

[14] People v. Nardo, 270 SCRA 672, April 4, 1997; People v. Atuel, 261 SCRA 339, September 3, 1996; People v. Cura, 240 SCRA 234, January 18, 1995; People v. Malunes, 247 SCRA 317, August 14, 1995.

[15] 300 SCRA 431, December 22, 1998; citing People v. Salinas, 232 SCRA 274, May 6, 1994, per Cruz, J.

[16] People v. Atop, 286 SCRA 157, February 10, 1998.

[17] People v. Garces, 322 SCRA 834, January 20, 2001; People v. Tabioan, 317 SCRA 126, October 20, 1999; People v. Alojado, 305 SCRA 236, March 25, 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.