

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARMAN AROFO AND GASPAR FORTALIZA, ACCUSED-APPELLANTS.

G.R. No. 139433. April 11, 2002

Ponente: DAVIDE JR., C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-139433/>

DAVIDE JR., C.J.:

Accused-appellants Arman Arofo (hereafter ARMAN) and Gaspar Fortaliza (hereafter GASPAR) are before us to seek a review of the 4 December 1996 Decision[1] of the Regional Trial Court, Branch 56, Mandaue City, in Criminal Case No. DU-1212, finding them guilty beyond reasonable doubt of the crime of rape on two counts committed against Glenda Mantuhak (hereafter GLENDa), and sentencing them to suffer the penalty of reclusion perpetua in each count.

The accusatory portion of the information[2] filed against them reads as follows:

That on or about the 1[st] day of March, 1989 at 8:00 o'clock in the evening, more or less, at Garing, Municipality of Consolacion, province of Cebu, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, Arman Arofo together with Gaspar Fortaliza, conspiring, confederating and mutually helping with one another, with deliberate intent, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with Glenda Mantuhak, against her will and consent.

CONTRARY TO LAW.

Upon arraignment on 7 November 1989, ARMAN and GASPAR each entered a plea of not guilty.[3] Trial on the merits ensued thereafter.

GLENDa, then a 20-year-old student of Southwestern University, testified that at past 8:00 p.m. of 1 March 1989, while she was on her way home from school, she met ARMAN and GASPAR along the road in Danlag, Consolacion, Cebu. The two greeted her good evening, which she acknowledged. GLENDa continued to walk, and after having reached a distance of 300 meters, ARMAN and GASPAR suddenly appeared behind her. GASPAR abruptly boxed her, and when she turned to face both, ARMAN covered her mouth. She screamed and put up a struggle, but to no avail. The two carried her towards a banana plantation and hid her behind a banana tree.[4]

Behind the banana tree, ARMAN tore GLENDa's underwear with the use of a knife. GASPAR then lay on top of GLENDa and told ARMAN to move farther to watch for passersby. ARMAN did so as told. Thereafter, GASPAR lapped GLENDa's vagina and tried to insert his penis into it but failed. At this point, a cargo truck, followed by a motorcycle, passed by. Afraid that they might be seen because of the vehicle's illumination, appellants dragged GLENDa towards a stringbean plantation.[5]

At the stringbean plantation, the two again forced GLENDa to the ground, with GASPAR's gun and ARMAN's knife poked at her. GASPAR immediately placed himself on top of her and again asked ARMAN to move farther,

as he was ashamed. Without inserting his organ into her vagina, GASPAR “humped” on GLENDA. After a while, ARMAN came back with the information that GLENDA’s brothers were within the vicinity. GASPAR instantaneously stood up. GLENDA was then dragged towards a coconut plantation.[6]

It was at the coconut plantation that GASPAR was able to insert his penis into GLENDA’s vagina. He, however, ejaculated outside of her vagina, as he was afraid that she would get pregnant. With GASPAR done, ARMAN came near for his turn, but GASPAR said: “Never mind because her brothers wanted her and we might be found.” Heeding GASPAR’s advice, ARMAN, along with GASPAR and GLENDA, started to walk. However, after reaching an open space, ARMAN suddenly pushed GLENDA to the ground and forcibly inserted his penis into her mouth. Then ARMAN inserted his organ into hers and consummated his bestial act. With ARMAN done, GASPAR instructed GLENDA to stand up. The three proceeded to a squash plantation.[7]

At the squash plantation, GASPAR told GLENDA to listen to the radio the following day because he would kill ARMAN. On the same occasion, he also told her that he would divulge his identity to her after a few days. GASPAR kissed GLENDA on the left cheek and told her to leave.[8]

Being unfamiliar with the place, GLENDA asked GASPAR for directions. It was past midnight or early dawn of 2 March 1989 when GLENDA came upon a house where she sought assistance. The occupants accompanied GLENDA to the house of the Barangay Chairman of Danlag, Consolacion, Cebu. Since the Barangay Chairman was not around, they decided to bring GLENDA home. On their way, they met GLENDA’s parents to whom GLENDA narrated her sad ordeal.[9]

On 2 March 1989, GLENDA went to the Southern Islands Hospital in Cebu City for genital and medical examinations.[10] Dra. Lucille Albano found in her abrasions and contusions, as well as multiple hymenal lacerations at 3, 6, and 9 o’clock positions. She further observed that GLENDA’s fourchette exhibited signs of trauma at 6 o’clock position. Moreover, the sperm analysis yielded positive results for the presence of spermatozoa in her vagina.[11] The following day, GLENDA executed a sworn statement,[12] and three days thereafter she executed a supplement[13] positively identifying ARMAN and GASPAR as her rapists.

Appellants had alibis for their defense. For his part, ARMAN claimed that from 5:30 p.m. up to 9:30 p.m. of 1 March 1989 he was at the Consolacion Municipal High School in Consolacion, Cebu, attending his classes. His first subject was Trigonometry (5:30-6:30 p.m.), under the supervision of Romana Tumanda; his second subject was Mathematics (6:30-7:30 p.m.), under the supervision of Ma. Vicenta Cagadas; his third subject was Physics (7:30-8:30 p.m.), under the supervision of Estrella Laborte Quiamco; and his last subject was Social Studies (8:30-9:30 p.m.), under the supervision of Ma. Lourdes Cabigon. He immediately went home thereafter.[14] All the aforementioned teachers, Ms. Tumanda, Ms. Cagadas, Ms. Quiamco, and Ms. Cabigon, as well as his classmate Charlie Tugonon, corroborated ARMAN’s testimony.[15]

On the other hand, GASPAR tried to establish his alibi through the testimonies of his wife, Noeta Fortaliza; his elder brother Policarpo Fortaliza, Jr.; and his mother, Natividad Fortaliza. They claimed that at about 8:00 p.m. of 1 March 1989, GASPAR was with them at Policarpo’s house viewing the movie “Rambo III.” He went home, together with his wife and parents, between 9:00 and 10:00 p.m. and slept right away upon reaching home.[16]

For his part, GASPAR testified on his arrest and detention. According to him, on 5 March 1989 he was picked up by the police at his house without a warrant of arrest and brought to the police station for questioning. But upon arrival at the police station, he was immediately placed under detention. Thereafter he noticed the arrival of a policeman and a woman whom he saw for the first time and whom he later found to be GLENDA. The policeman asked the woman to identify him (GASPAR) and then said: “This is the person Bay.”[17]

The trial court was convinced with the straightforward, candid and simple narration by GLENDA of the horrifying ordeal she suffered under the hands of ARMAN and GASPAR. It found no ulterior motive for GLENDA to file a serious charge of rape against them. It ruled that ARMAN and GASPAR's self-serving negative evidence cannot stand against GLENDA's positive declaration that they were the ones who defiled her. Thus, in its challenged decision of 4 December 1996, it convicted them of two counts of rape and sentenced them to suffer reclusion perpetua for each count.

In their joint Appellants' Brief, accused-appellants allege that the trial court erred in (1) giving full faith and credence to the testimonies of the prosecution witnesses; (2) finding the evidence for the prosecution sufficient to establish beyond reasonable doubt their guilt; (3) not acquitting them; and (4) sentencing each of them to suffer two counts of reclusion perpetua. They point out alleged inconsistencies and contradictions between GLENDA's testimony and her two sworn statements, which undermine her credibility. Specifically, they allege that GLENDA's description of her assailants in her sworn statement did not jibe with the physical features of ARMAN and GASPAR.

In the Appellee's Brief, the Office of the Solicitor General (OSG) counters that the inconsistencies do not prove that the rapes were not committed, nor do they depreciate the probative value of the overwhelming evidence adduced by the prosecution. GLENDA's positive identification of ARMAN and GASPAR and her testimony on their complicity in the commission of the crime, corroborated by the medical findings of genital swelling and abrasions, proved beyond reasonable doubt the guilt of ARMAN and GASPAR. The OSG agrees with the trial court in imposing upon the accused-appellants the penalty of reclusion perpetua for each of the two counts of rape, it appearing that they conspired and cooperated in the commission of the crime of rape. However, the OSG bewails the failure of the trial court to award civil indemnity, which, under current case law, is automatically awarded to the offended party without need of further evidence other than the fact of commission of rape.

The pleas of ARMAN and GASPAR do not persuade us.

Settled is the rule that no woman would openly admit that she was raped and consequently subject herself to an examination of her private parts, undergo the trauma and humiliation of a public trial, and embarrass herself with the need to narrate in detail how she was raped, if she was not raped at all.[18] In the instant case, GLENDA narrated clearly and spontaneously how ARMAN and GASPAR raped her on 1 March 1989. Her narration was made with such richness of details as only one telling the truth could do so.

Furthermore, there is absolutely no showing that GLENDA was actuated by any sinister motive to falsely implicate ARMAN and GASPAR. A victim of rape would not come out in the open if her motive were anything other than to obtain justice. The testimony of a woman as to who abused her is credible where she has absolutely no motive to testify against the accused.[19]

The inconsistencies relied upon by ARMAN and GASPAR are not entirely irreconcilable with, or material to, the fact of rape. In fact, we see no real inconsistency between GLENDA's two sworn statements. Both statements contained GLENDA's clear and unequivocal declaration that she recognized her abusers by their built, face and voice. As a general rule, inconsistency between two statements of a witness should be determined, not by resort to individual words and phrases alone, but by the whole impression or effect of what has been said or done.[20] Furthermore, it was established at the trial that because of the illumination coming from a nearby house and from passing vehicles, GLENDA was able to see the faces of ARMAN and GASPAR.[21] Whether GASPAR had pimples or a rough face and curly hair is inconsequential. GLENDA explained that since she and GASPAR rolled on the ground, the sand on the ground must have caused the rough appearance of GASPAR's face.[22]

While the names of ARMAN and GASPAR became known to GLENDA only when she executed her second

statement, the same is inconsequential also. Settled is the rule that it is not necessary for the name of the accused to be specifically stated by a witness in an affidavit or testimony. Victims of crimes cannot always identify their assailants by their names.[23]

In light of the positive testimony of GLENDA proving ARMAN and GASPAR's accountability, their bare denial and alibi must fail. As between a categorical testimony that rings of truth on one hand and a bare denial on the other, the former is generally held to prevail. A mere denial, like alibi, is inherently a weak defense and constitutes self-serving negative evidence, which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.[24]

We, therefore, affirm the trial court's judgment finding ARMAN and GASPAR guilty of two counts of rape. Settled is the rule that if conspiracy is established each defendant is responsible not only for the rape committed by him personally, but also for the rape committed by the others, because each one of them cooperated in the consummation of the rape committed by the others.[25] In this case ARMAN and GASPAR clearly conspired together and mutually helped each other in the planning, execution and consummation of the rapes. The evidence shows that while GASPAR was having carnal knowledge of GLENDA, ARMAN effectively stood as look-out. In fact, ARMAN advised GASPAR of the presence of GLENDA's brothers in the vicinity. On the other hand, while ARMAN was abusing GLENDA, GASPAR did not in any way prevent him from consummating his bestial act. An overt act in furtherance of the conspiracy may consist in actively participating in the actual commission of the crime, in lending moral assistance to his co-conspirators by being present at the scene of the crime, or in exerting moral ascendancy.[26]

Under Article 335, third paragraph, of the Revised Penal Code, whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death. Although the use of a deadly weapon was proved during the trial, the same cannot be taken into account in the imposition of the penalty because it was not alleged in the information. It is the circumstance that the rapes were committed by two persons that calls for the application of that penalty. But since no modifying circumstance has been proved, the proper imposable penalty is reclusion perpetua pursuant to Article 63 of the Revised Penal Code.

However, the trial court erred in not awarding GLENDA an indemnity ex delicto and moral damages, which are mandatory upon the finding of rape. In rape cases, moral damages are automatically awarded to the victim in such amount as the court deems just without the need of pleading or proof, as the mental, physical, and psychological trauma suffered by the victim is too obvious.[27] The awards of P50,000 as indemnity and P50,000 as moral damages for each count of rape are, thus, in order.

WHEREFORE, the challenged decision of the Regional Trial Court, Branch 56, Mandaue City, in Criminal Case No. DU-1212, finding accused-appellants ARMAN AROFO and GASPAR FORTALIZA guilty of two counts of the crime of rape and sentencing each of them to suffer the penalty of reclusion perpetua for each count is hereby AFFIRMED, with the modification that they are further ordered to pay solidarily the victim GLENDA MANTUHAK the sums of P50,000 as indemnity and P50,000 as moral damages in each of the two counts of rape.

Costs de oficio.

SO ORDERED.

Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] Rollo, 19-36; Original Record (OR), 152-169. Per Judge Augustine A. Vestil.

[2] OR, 1.

[3] OR, 58.

[4] TSN, 15 May 1990, 7-15.

[5] Id., 17-22.

[6] TSN, 15 May 1990, 22-26.

[7] Id., 26-31.

[8] TSN, 15 August 1990, 9-10.

[9] Id., 11-14.

[10] TSN, 15 August 1990, 15.

[11] TSN, 11 October 1990, 9-10; Exhibit "D," OR, 90.

[12] Exhibit "B," OR, 9.

[13] Exhibit "2," OR, 15.

[14] TSN, 25 March 1993, 3-13, 16.

[15] TSN, 22 March 1993, 3-16; TSN, 23 March 1993, 4-5.

[16] TSN, 19 April 1993, 6-8, 15-16; TSN, 12 May 1994, 8-9.

[17] TSN, 12 May 1994, 17-18.

[18] *People v. Abrecinoz*, 281 SCRA 59, 72 [1997].

[19] *People v. Dabon*, 216 SCRA 656, 666 [1992]; *People v. Gonzales*, 338 SCRA 678, 688 [2000].

[20] *People v. Gabas*, 233 SCRA 77, 84 [1994].

[21] TSN, 15 May 1990, 10-11, 21.

[22] TSN, 2 October 1991, 8-9.

[23] *People v. Feliciano*, 256 SCRA 706, 713 [1996].

[24] *People v. Garcia*, 281 SCRA 463, 481 [1997]; *People v. Alvero*, 329 SCRA 737, 756 [2000].

[25] *People v. Mesias, Jr.*, 127 SCRA 792, 801 [1984].

[26] *People v. Pablo*, G.R. Nos. 120394-97, 16 January 2001.

[27] *People v. Villanueva*, 339 SCRA 482, 503 [2000]; *People v. Rebato*, G.R. No. 139552, 24 May 2001.

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.