

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DECOROSO ACA-AC Y CESPON, ACCUSED-APPELLANT.

G.R. No. 142500. April 20, 2001

Ponente: MENDOZA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-142500/>

MENDOZA, J.:

This is an appeal from the decision,[1] dated February 19, 1994, of the Regional Trial Court, Branch 4, City of Tagbilaran, finding accused-appellant Decoroso Aca-ac y Cespon, alias "Kokong," guilty of frustrated rape and sentencing him to suffer the indeterminate penalty of imprisonment from twelve (12) years of prision mayor, as minimum, to seventeen (17) years, four (4) months, and one (1) day of reclusion temporal, as maximum, with accessory penalties, and to indemnify the complainant Fritzie Aca-ac the amount of P30,000.00 as moral damages and P20,000.00 as exemplary damages. Originally taken to the Court of Appeals, the appeal was certified to this Court pursuant to Rule 124, §13 of the Revised Rules on Criminal Procedure in view of the appeals court's ruling[2] that accused-appellant is guilty of consummated, not frustrated, rape and that the appropriate penalty to be imposed on accused-appellant is reclusion perpetua.

The facts are as follows:

On the basis of criminal complaints[3] of the minor Fritzie Aca-ac, four informations[4] for rape were filed against accused-appellant in the Regional Trial Court of Tagbilaran City.

In Criminal Case No. 7091, the information alleged:

That on or about the 22nd day of September, 1990 at Barangay Villalimpia, Municipality of Loay, Province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused through craft, lured and brought the victim Fritzie Aca-ac, a minor below twelve years of age, to the former's house and to his bedroom and thereafter, with intent to have sexual intercourse, removed the victim's panty, let her lie down while he lay on top her, inserted his penis into her labia minora near the clitoris of the vagina and succeeded in having carnal knowledge with the victim with her vitiated consent since she is below twelve years old, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.

In Criminal Case No. 7092, the information charged:

That on or about the 17th day of October, 1990 at Barangay Villalimpia, Municipality of Loay, Province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused through craft, lured the victim Fritzie Aca-ac, a minor below twelve years of age to remove her shorts and panty and to lie down on the ground, and thereafter, the accused inserted his penis into her vagina near the clitoris and vaginal opening and succeeded in having carnal knowledge with the victim with her vitiated consent since she is below twelve years old, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.

In Criminal Case No. 7093, the information alleged:

That on or about the 12th day of January, 1991 at Barangay Villalimpia, Municipality of Loay, Province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused through craft, lured the victim Fritzie Aca-ac, a minor below twelve years of age to go to a bushy place near a nipa plantation, and, upon reaching the place, let her undress and lie down while he lay on top of her, and thereafter, he inserted his penis inside her vaginal opening near her clitoris and succeeded in having carnal knowledge with the victim with her vitiated consent since she is below twelve years old, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.

In Criminal Case No. 7094, the information asserted:

That on or about the 8th day of September, 1990 at Barangay Villalimpia, Municipality of Loay, Province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused through craft, lured and brought the victim Fritzie Aca-ac, a minor below twelve years of age, to an old uninhabited house, and thereafter, upon reaching the place, took off her shorts and her panty with intent to have sexual intercourse with her and then let her lie down after which the accused lay on top of her and inserted his penis into the labia minora near the clitoris of the vagina of the victim and succeeded in having carnal knowledge with her vitiated consent since she is below twelve years old, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.

Accused-appellant having pleaded not guilty to the charges, the joint trial of the cases was set. Five witnesses were presented by the prosecution in support of its case, namely, complainant Fritzie Aca-ac, her mother, Felipa Aca-ac, her classmate, Algerico Lonio, the physician, Dr. Stella Maris J. Amora, and rebuttal witness Esteban Dagandan.

In Criminal Case No. 7094, complainant testified that on September 8, 1990, she was asked by her mother Felipa Aca-ac to buy cooked fish (inon-onan) for dinner from a store in Barangay Villalimpia, Loay, Bohol. On her way home, she met accused-appellant, who held her by the hand and forced her to go with him to the vacant house of one Pinay Aguirre. Once inside, accused-appellant removed complainant's shorts and panty and made her lie down on the floor, which was covered with coconut leaves. Complainant claimed that accused-appellant fondled her breasts and licked her private parts. He then went on top of her and made "push and pull movements." When he was through, complainant said, accused-appellant withdrew his penis and white fluid came out. Complainant said she then wiped her private parts and put on her clothes. She said she did not tell anyone what happened to her.[5] Algerico Lonio, a resident of Barangay Villalimpia, Loay, Bohol and a classmate of complainant, testified that at about 7:00 p.m. of September 8, 1990, he was at the house of one Emmie Blasco when he saw accused-appellant and complainant going inside the house of Pinay Aguirre, which was known in the neighborhood to be haunted. Out of curiosity, he said, he followed the two and peeped through the fence at the back. He saw accused-appellant undress complainant, go on top of her, and make "push and pull movements." Lonio said he knew that the two were having sexual intercourse, which lasted for about three minutes. He claimed he did not tell anyone what he saw for fear of his life. But, Lonio said, on February 27, 1991, he and complainant had a quarrel in school during which he asked complainant about the rape. According to Lonio, complainant admitted that accused-appellant had raped her and then left crying. Lonio later narrated the incident to complainant's mother.[6]

In Criminal Case No. 7091, complainant testified that at about 4:00 p.m. of September 22, 1990, after gathering some guavas in Barangay Villalimpia, Loay, Bohol, she passed by the house of accused-appellant on her way home. When accused-appellant saw her, he tried to lure her on the pretext that he had some papayas for her.

Complainant got inside the house but, sensing that there was no papaya in the house, she immediately tried to leave. Accused-appellant, however, closed the door and brought her to his bedroom where he raped her. Accused-appellant threatened her with harm if she told anyone about the incident.[7]

In Criminal Case No. 7092, complainant testified that at about 4:30 p.m. of October 17, 1990, as she was gathering firewood in Barangay Villalimpia, Loay, Bohol, accused-appellant came and forced her to remove her shorts and panty. She was made to lie down on the ground covered with nipa leaves and was then raped by accused-appellant. Complainant went home after the incident, bringing with her the firewood she had gathered.[8]

In Criminal Case No. 7093, complainant testified that at about 1:00 p.m. of January 12, 1991, as she was on her way home from the house of a certain Betty, she saw accused-appellant near the house of one Ned Reyes in Villalimpia, Loay, Bohol. Accused-appellant seized her and dragged her to a bush near the plantation and made her undress and lie down. Then he allegedly forced her to have sexual intercourse with him.[9]

Complainant's mother, Felipa Aca-ac, testified that accused-appellant is the cousin of her father-in-law, Faustino Aca-ac. She said that in the afternoon of February 27, 1991, she learned from Lonio that her daughter had been raped by accused-appellant. She said that when she confronted her daughter, the latter admitted that accused-appellant had raped her four times. According to her, the next day, February 28, 1991, she took Fritzie to Dr. Stella Maris J. Amora of the Governor Celestino Gallares Memorial Hospital for medical examination. Felipa said that accused-appellant offered to pay P12,000.00 as settlement of the case.[10]

Dr. Amora testified that there was no laceration in the hymen of complainant. She said, however, that it was possible that there could be a penetration of a male organ up to the labia minora and the hymen would still be intact.[11] The defense presented six witnesses, namely, accused-appellant Decoroso Aca-ac, Faustino Aca-ac, Felix Adorable, Rosalio Pamayloan, Petronia Aca-ac, and Alberto Cempron.

Accused-appellant Decoroso Aca-ac y Cespon, 57 years old at the time of the alleged rape incidents, denied the charges and claimed that Felipa Aca-ac had instigated complainant to file the charges because he told Felipa's husband that Felipa was having an affair with another man. He said the charges were trumped up by Felipa because she wanted to extort P30,000.00 from him. He also stated that he had a quarrel with Felipa's husband, Roberto, because the latter had stolen his chicken. Accused-appellant said he reported the matter to Barangay Captain Felix Adorable. He stated that Faustino Aca-ac tried to get the parties to settle the case, but he failed in his efforts. Accused-appellant alleged that at 57, he was already old and that he could no longer have an erection.[12]

Faustino Aca-ac, grandfather of complainant and a cousin of accused-appellant, testified that he did not believe accused-appellant committed the crime. He said accused-appellant and complainant's parents had a misunderstanding which he tried to settle unsuccessfully.[13]

Felix Adorable, a former barangay captain of Villalimpia, Loay, Bohol and an incumbent barangay kagawad, confirmed accused-appellant's claim that he had filed a complaint against Roberto Aca-ac, complainant's father, with the Katarungang Pambarangay.[14]

Rosalio Pamayloan was a neighbor of accused-appellant and a resident of Villalimpia, Loay, Bohol for 12 years. He testified that he had been a principal in a public school since 1983. He personally knew accused-appellant and vouched for the character of accused-appellant as a good man.[15]

Petronia P. Aca-ac, wife of accused-appellant, testified that she and her husband had been married for 36 years and had six children, two of whom had died. On the four occasions on which it was alleged accused-appellant had raped complainant, Petronia said her husband was in their house helping her make "nipa shingles." [16]

On rebuttal, the prosecution presented Esteban Dagandan, who testified that complainant's mother, Felipa, worked as a nurse of his (Dagandan's) wife, because the latter had suffered a stroke. Dagandan disputed accused-appellant's claim that complainant and her mother had demanded P30,000.00 for the settlement of the case. He said that sometime in May 1992, Albert "Berting" Cempron, a nephew of accused-appellant, accompanied by his wife Lydia, thrice went to his (Dagandan's) house asking Felipa to withdraw the case against accused-appellant. Accused-appellant offered to pay Felipa P12,000.00 as settlement of the case, but the same was rejected.[17]

Felipa Aca-ac was recalled to the stand. She denied Rosalio Pamayloan's testimony that she proposed a settlement of the case for P30,000.00 and that accused-appellant had no criminal record in their barangay. She said that she rejected Albert Cempron's P12,000.00 offer, made in behalf of accused-appellant, for the settlement of the case.[18]

Complainant Fritzie Aca-ac was also recalled to the stand. She rebutted the testimony of accused-appellant that he could no longer have an erection. She said she saw accused-appellant insert his erect penis into her vulva.[19]

On sur-rebuttal, Alberto A. Cempron, the barangay captain of Matin-aw, Carmen, Bohol, testified that he tried to bring the parties to an amicable settlement of their case because they are relatives and his wife is a cousin of complainant's father. However, he said he was unsuccessful as accused-appellant's wife was willing to pay only P12,000.00, but Felipa wanted P30,000.00.[20] On February 19, 1994, the trial court rendered a decision convicting accused-appellant of frustrated rape in Criminal Case No. 7094 and acquitting him of the charges in the rest of the cases. The dispositive portion of its decision reads:

WHEREFORE, under Criminal Case No. 7094, the Court finds accused Decoroso Aca-ac y Cespon guilty beyond reasonable doubt of the crime of frustrated rape and he is hereby sentenced to undergo an indeterminate penalty of imprisonment ranging from twelve (12) years of prision mayor, as minimum, to seventeen (17) years, four (4) months and one (1) day of reclusion temporal, as maximum, with all its accessory penalties, to indemnify the offended party Fritzie Aca-ac the sum of P30,000.00 as moral damages and another amount of P20,000.00 in the concept of exemplary damages.

As regards the three other above-entitled cases, Criminal Case Nos. 7091, 7092, & 7093, all for rape, accused Decoroso Aca-ac y Cespon, alias Kokong, is hereby acquitted on the ground of reasonable doubt.

SO ORDERED.[21]

On appeal, the Court of Appeals held that accused-appellant was guilty of consummated rape and accordingly sentenced him to reclusion perpetua.

Hence, this appeal.

First. In holding that the crime committed was frustrated rape, the trial court relied on the findings of Dr. Amora which showed that complainant did not have any lacerations in her hymen which in fact was intact. The trial court pointed out that there was no evidence of penetration into the vagina of complainant.

This is error. As this Court explained in *People v. Orita*,[22] rape is either attempted or consummated. There can be no frustrated rape. While the penultimate paragraph of Art. 335 of the Revised Penal Code[23] prescribes death for attempted or frustrated rape, and a homicide committed by reason or on the occasion thereof, the provision on frustrated rape is a "dead provision." This Court said in *Orita*:

Clearly, in the crime of rape, from the moment the offender has carnal knowledge of his victim, he actually attains his purpose and, from that moment also all the essential elements of the offense have been accomplished. Nothing more is left to be done by the offender, because he has performed the last act necessary

to produce the crime. Thus, the felony is consummated. In a long line of cases (*People v. Oscar*, 48 Phil. 527 (1925); *People v. Hernandez*, 49 Phil. 980 (1925); *People v. Royeras*, 56 SCRA 666 (1974); *People v. Amores*, 58 SCRA 505 (1974)), we have set the uniform rule that for the consummation of rape, perfect penetration is not essential. Any penetration of the female organ by the male organ is sufficient. Entry of the labia or lips of the female organ, without rupture of the hymen or laceration of the vagina, is sufficient to warrant conviction. Necessarily, rape is attempted if there is no penetration of the female organ (*People v. Tayaba*, 62 Phil. 559 (1935); *People v. Rabadan and Olaybar*, 53 Phil. 694 (1927); *United States v. Garcia*, 9 Phil. 434 (1907)) because not all acts of execution were performed. The offender merely commenced the commission of a felony directly by overt acts. Taking into account the nature, elements, and manner of execution of the crime of rape and jurisprudence on the matter, it is hardly conceivable how the frustrated stage in rape can ever be committed.[24]

As the Court of Appeals noted, accused-appellant should be convicted of rape in its consummated stage and not merely for frustrated rape, since the entry of the male organ into the labia of the female organ alone is sufficient to constitute consummated rape.

For that matter, the mere touching of the labia or pudendum by the male organ is enough to consummate the crime of rape.[25] It is enough that there is a penetration, however slight, of the external genitalia.[26] Consequently, the fact that there was no laceration of complainant's private parts or that her hymen was intact, as testified to by Dr. Amora,[27] does not preclude a finding of rape against accused-appellant. It bears emphasis that a broken hymen or laceration of any part of the female genital is not a pre-requisite for a conviction for rape.[28]

Accused-appellant's claim that it was impossible for him, then 57 years old, to commit the crime of rape because he could no longer have an erection is self-serving. Age is not the criterion in determining sexual interest and potency.

The birth certificate (Exh. C) of complainant shows that she was born on April 9, 1979. Since complainant was then about 11 years old when she was raped by accused-appellant on September 8, 1990, the crime is statutory rape under Art. 335, paragraph 3 of the Revised Penal Code.

Second. Accused-appellant contends that the way complainant narrated the lurid details of how she was allegedly raped is not the way an innocent child below 12 years of age testifies, but the way a woman, who is worldly and experienced in sex, will testify. Accused-appellant questions complainant's narration as he likens them to stories contained in pornographic magazines and movies.

The contention has no merit. Where an alleged rape victim says she was sexually abused, she says almost all that is necessary to show that rape had been inflicted on her person, provided her testimony meets the test of credibility.[29] For no woman would allow an examination of her private parts or go through the humiliation of a trial unless she has actually been so brutalized that she desires justice for her suffering.[30]

In this case, accused-appellant has not shown any reason for complainant's testimony not to be given credence. At the time she was raped, complainant was an 11 year-old Grade 5 student of Loay Central School in Loay, Bohol. After she was deflowered by accused-appellant, she was forced to silence by threats on her life. It was only on March 1, 1991 when she executed a sworn statement[31] before the police authorities narrating therein how she had been raped four times by accused-appellant. She told her story in open court. Complainant testified how she was raped on September 8, 1991, thus:

ATTY. ALEXANDER H. LIM:

Q- Now, what happened after your short pants and panty were removed?

A- That was the time that I squatted, I have no more panty and short pants.

Q- Now, when you said you were squatting, did it not occur to your mind to run away or shout?

A- No, I did not.

Q- And so what happened after that?

A- He pushed down my knees and caused me to lie down.

C O U R T:

Q- You mean the accused pushed down your knees and thereafter pushed your body causing you to lie down face up?

A- When he pushed down my knees, so I squatted at that time and he also pushed my shoulder that caused me to lie down on my back.

ATTY. ALEXANDER H. LIM:

Q- After that what happened next?

A- He kissed me on the lips.

Q- Now, when he did that to you, did you not resist?

A- I did not.

C O U R T (TO WITNESS)

Q- Why did you not like to be kissed by the accused at that time?

A- I tried to avoid his kiss but he held my hands.

ATTY. ALEXANDER H. LIM:

Q- Now, did you not bite him? When you did not like his kiss?

A- I did not.

Q- Still you did not offer any resistance to shout?

A- I resisted but he held my hands.

Q- Why did you tell the Court that you uttered something?

A- I told him.

Q- Meaning your voice was not heard?

A- He told me not to shout.

Q- Why did you not shout the way that it could be heard by your neighbors?

A- Because he told me not to make any noise for he will kill me.

Q- Is that all?

A- Yes, sir.

Q- But he did not carry any weapon?

A- No, sir.

Q- Now, after that kiss on your lips, what happened next?

A- He sucked my nipples.

Q- Did you not push him when he sucked your nipples?

A- I held the back of his head.

Q- How did he suck your nipples?

FISCAL REINERIO S. NAMOCATCAT:

Is there a particular way of sucking nipples?

ANSWER OF WITNESS:

He raised my t-shirt.

ATTY. ALEXANDER H. LIM:

Q- So, he raised your t-shirt in sucking your nipples?

A- Yes, sir.

Q- Still in raising your t-shirt, you did not shout?

A- I told him don't, but he did not heed.

Q- Still in a low voice?

A- Yes, sir.

Q- You did not shout loudly?

A- I did not because he told me if I will make a noise or report the matter, he will kill me.

Q- You were afraid of him when you said he did not hold any weapon?

A- I was afraid he would box me.

C O U R T:

Any further questions?

ATTY. ALEXANDER H. LIM:

Q- Now, at that time according to you he sucked your nipples, you did not consider that you were already endangered?

A- I have not known of such danger.

Q- After that, what happened next?

A- He also sucked the other nipple.

Q- So, the two nipples were sucked?

A- Yes, sir.

Q- So, what happened after that?

A- He licked my vagina.

Q- When he licked your vagina, you did not shout or protest?

A- I told him don't, I tried to stand up but he pushed me and pressed my forehead.

Q- At that moment he was very busy licking your vagina, what else did he do?

A- He pressed my forehead.

Q- While he was licking your vagina, you pushed his head?

A- I pushed his forehead.

C O U R T:

Q- Did you succeed when you stand up after pushing the forehead of the accused?

A- Because of his strength, when I stood up, he held my hand and I was made to lie down again.

Q- While he was licking your vagina, where was the hand of the accused?

A- When I pushed the forehead, he was licking my vagina.

Q- So, what happened after that?

A- He mounted on me.

Q- Before that, while the accused was licking your vagina, were your legs apart?

A- Because my legs were apart, he licked my vagina.

Q- You made it voluntarily or the accused made it apart?

A- I was the one who spread my two legs.

ATTY. ALEXANDER H. LIM:

Q- In doing so, when you spread your legs, the accused used his two hands?

A- Yes, sir, he used his two hands.

Q- At the same time he was licking your vagina?

A- Yes, sir.

Q- And in that very moment you could stand up or you could squat or use your hand to fight back or to resist?

A- I tried to rise up and pushed his forehead.

Q- And you succeeded in rising up pushing his forehead?

A- After I pushed his forehead, he crawled and held my hands and let me lie down again.

Q- In that process, did you not shout?

A- I did not shout, I was afraid he might press me.

Q- But he did not press you?

A- But he told me if I will make noise, he will kill me.

Q- Now, after that what happened?

A- He mounted on me.

Q- His whole weight mounted on you?

A- Yes, sir, his whole body.

Q- And how did you feel?

A- I cannot push his head because he held my hands this was the time I could not move.

Q- So, he was holding your hands and you could cross your leg if you want to?

A- I cannot cross my legs because his two legs were over me.

C O U R T (TO WITNESS):

Q- You mean his body was over your spread legs while mounting from the licking until he mounted on you?

A- Yes, sir, his body was over my two legs.

C O U R T:

Any further questions?

ATTY. ALEXANDER H. LIM:

Q- Now, what happened after that?

A- He made a push and pull movement.

Q- What did you feel when he was doing that act of push and pull movement?

A- There was something hot that I felt on my vagina.

C O U R T:

Why did you feel something hot in your vagina?

A- It seems that there was something hot that went out from my vagina. It was a sticky fluid.

Q- Where did the fluid come from?

A- May be it came out when he put his penis on my vagina.

Q- Did you feel the hot fluid coming from the penis of the accused and did you feel inside your vagina or from the labia of your vagina?

A- The penis was inside my vagina because he tried to make way to the large opening of my vagina so that his penis will enter.

Q- Did you feel the penis of the accused penetrating your vagina?

A- Yes, sir, it went inside.

COURT (TO WITNESS)

Q- What happened to your vagina, did it bleed when the penis of the accused entered your vagina?

A- The penis did not enter but just inside the opening of my vagina.

Q- You mean in the vulva of your vagina?

A- It was not inside the opening of the vagina but near the clitoris.

Q- So, you are now changing your testimony, you said earlier that the penis of the accused penetrated your vagina and now you are changing your testimony by saying that the penis of the accused only touched the clitoris of your vagina?

FISCAL REINERIO S. NAMOCATCAT:

The witness is trying to say to enter the mouth of the vagina until the clitoris. This child is still very young to demonstrate the fact that the penetration was made up to the labia minora of the victim.[32]

Her consistent testimony despite intense and lengthy interrogation[33] belies accused-appellant's claim that she was telling a tale culled from pornographic magazines or movies. Faced with complainant's testimony, accused-appellant could only offer the defense of denial. It is well-settled that denial cannot prevail over the positive identification and categorical testimony of complainant. The rule is that between the positive declarations of the prosecution witnesses and the negative statements of the accused, the former deserves more credence.[34] That is why accused-appellant had to summon to his aid an alleged affidavit of desistance (Exh. 3) of complainant and her mother. But how could this bind complainant and her mother or prove anything when the so-called affidavit is unsigned?

Third. Accused-appellant says complainant did not immediately report the incidents to the authorities nor tell the same to her mother. He claims that the cases were filed merely to extort money from him.

These claims have no basis. The fact that complainant did not immediately report the matter to the authorities was fully explained by the prosecution. Complainant was only 11 years old when the rape incidents took place. Young girls usually conceal for some time their defilement.[35] Moreover, accused-appellant, being the cousin of her paternal grandfather, exercised moral ascendancy over complainant and even threatened her with death if she told anyone what he had done to her.

Nor is there any probable reason for complainant to allow herself to be used as a pawn of her mother Felipa to extort money from accused-appellant. Unless it can be shown that complainant was moved by ill will to falsely implicate accused-appellant, the inescapable conclusion is that her testimony is worthy of full faith and credit.[36]

Fourth. Accused-appellant doubts the veracity of Algerico Lonio's testimony that he had witnessed the rape of complainant on September 8, 1990. Accused-appellant points out that Lonio failed to report the incident to complainant's parents or to the authorities despite the fact that there was no threat to his life. Accused-appellant also points out certain improbabilities in the testimony of Lonio, to wit: that he peeped through the "back fence of the house" and saw accused-appellant raping complainant; that despite the fact that the supposed incident happened between 7:00 to 8:00 p.m., no mention was made of any form of illumination of the place; and that accused-appellant made "push and pull movements" when the medical findings show that complainant's hymen was intact, thereby proving that there could not have been any penetration by accused-appellant's organ.

These arguments have no merit. On cross-examination, Lonio said that he knew what would happen to complainant when accused-appellant took her to the empty house of Pinay Aguirre because his (Lonio's) own younger sister and the sister of complainant had been abused by accused-appellant before. He said he saw how accused-appellant violated complainant against her will.[37]

Answering questions of the trial court, Lonio categorically said:

COURT: (TO WITNESS)

Q You said that you followed the two, accused and the complainant, after they entered the gate of the house of Pinay Aguirre. Did accused Decoroso not close the gate after they gained entrance to the gate?

A Decoroso closed the gate.

Q Was it locked?

A He just closed it without locking.

Q How far is the gate to the house of Pinay Aguirre? To the main door of her house?

INTERPRETER:

Witness pointing to a distance indicating 3 to 4 meters.

COURT:

Q What door was used when they entered the house? The back door, or front door, or side door.

A Side door.

Q How do you know that they were using the side door when they entered the house?

A Because I saw them.

Q The two were seeing you when you entered the gate following them?

A They did not see me.

Q Did you enter the house of Pinay Aguirre using the side door taken by the two when they entered the same house?

A No.

Q Where were [you] posted then?

A Inside the fence because I climbed over the bamboo fence.

Q Fence around the house of Pinay Aguirre?

A It only connected the gate because there was a poultry.

Q So, you did not enter the house of Pinay Aguirre where the complainant and the accused had entered at 7:00 o'clock in the evening of September 8, 1990?

A I did not.

Q Why did you say that Fritzie Aca-ac was already lying down and her short was pulled and her blouse was raised above her breast?

A I peeped.

Q There was a hole or there was a window?

A From a hole of a fence which is a hogwire.

Q How far was that fence made of hogwire to the house of Pinay Aguirre where the complainant and the accused entered?

INTERPRETER:

Witness indicating a distance of 3 to 4 meters.

COURT:

Q So that that portion of the house where the two entered was not surrounded by any walling in such a way that they could be seen from the wire?

A No wall.

Q How do you describe the house? Is it two storeys, or a building without walls?

A A two-storey house. Only the first storey has no wall because it was already destroyed by a storm.

Q Was the place lighted, considering that it was already 7:00 o'clock in the evening the incident allegedly happened?

A It was well lighted because the opposite house was well lighted.

Q And the light would reach the house of Pinay Aguirre?

A Yes.

Q When you saw the complainant with her shorts already pulled down, did I hear you correctly that the accused with the bended knees made a push-and-pull movement of the body of the complainant?

A Yes.

Q Was his penis exposed?

A Yes, I saw.

Q You said that the accused licked the vagina of the complainant. Which happened first, the licking of the vagina or the push-and-pull movement?

A The licking of the vagina happened first and after that, the accused made a push-and-pull movement.

Q Since you said that the penis of the accused was exposed, did we understand from you that the accused also pulled down his trousers, as well as his underwear?

A Yes.

Q Did you see the penis of the accused penetrate into the vagina of the complainant?

A I did not see because Fritzie was under.

Q In that precise moment, how far were you to the two?

INTERPRETER:

Witness indicating a distance of 3 to 4 meters.

COURT:

Q Did you hear any utterances [from] either of the two regarding the push-and-pull movement made by the accused? Did you hear anything from the accused while making a push-and-pull movement?

A None.

Q From complainant Fritzie, did you hear anything from her while the accused was making a push-and-pull movement over her?

A I did not hear any word from Fritzie.

Q You said earlier that the accused and the complainant had several intercourse. This is also testified to by you during the cross-examination. Do you know that the two were having sexual intercourse?

A Because of the movement of Decoroso.

Q After the push-and-pull movement, what transpired next?

A No more.[38]

The alleged inconsistencies in the testimony of Lonio as to the details of the September 8, 1990 rape incident are inconsequential. It was evident that Lonio was telling the truth. He cried after narrating to the court how he told his mother about the incident. When the trial judge asked him why he cried, Lonio said that he was hurt because the same thing happened to his younger sister.[39] He also said that he kept his silence in the beginning because he feared for his life.[40] The testimony of Lonio contains details that dovetails on material points with the testimony of complainant.

Fifth. While increasing the imposable penalty to reclusion perpetua in view of its conclusion that accused-appellant was guilty of statutory rape, the Court of Appeals affirmed the trial court's award of P30,000.00 for moral damages and P20,000.00 for exemplary damages in favor of the complainant.

This ruling must be modified. In accordance with current rulings of this Court, the award of moral damages should be increased to P50,000.00.[41] In addition, complainant should be paid P50,000.00 as civil indemnity.[42] On the other hand, the award of P20,000.00 as exemplary damages should be deleted for lack of basis.

WHEREFORE, the decision of the Court of Appeals finding accused-appellant Decoroso Aca-ac y Cespon guilty of statutory rape and sentencing him to suffer the penalty of reclusion perpetua is **AFFIRMED** with the **MODIFICATION** that accused-appellant is ordered to pay complainant Fritzie Aca-ac P50,000.00 as civil indemnity and, in addition, P50,000.00 as moral damages. The award of P20,000.00 as exemplary damages is hereby deleted.

SO ORDERED.

Bellosillo, (Chairman), and Buena, Jr., JJ., concur.
Quisumbing and De Leon Jr., JJ., on leave.

[1] Per Judge Achilles L. Melicor.

[2] Per Justice Conchita Carpio-Morales and concurred in by Justices Eloy R. Bello, Jr. and Eriberto U. Rosario, Jr.

[3] Documentary Exhibits, pp. P-2, P-3, P-4, and P-1.

[4] Rollo, pp. 9-10.

[5] TSN, pp. 6-13, Jan. 6, 1992; TSN, pp. 2-5, Jan. 7, 1992; TSN, pp. 1-5, Jan. 15, 1992.

[6] TSN, pp. 1-21. Dec. 17, 1991. (Testimony taken during the application for bail of accused-appellant which automatically formed part of the evidence on record.)

[7] TSN, pp. 6-7, Jan. 15, 1992.

[8] TSN, pp. 9-12, Jan. 15, 1992.

[9] Id., pp. 14-16.

[10] TSN, pp. 2-5, Jan. 6, 1992; Sworn statement of Felipa Aca-ac, dated March 1, 1991, RTC Records, pp. 3-4. (The English translation of the sworn statement of Felipe Aca-ac, dated March 1, 1999, is included in the records.)

[11] TSN, pp. 2-7, Feb. 17, 1992.

[12] TSN, pp. 2-9, Dec. 22, 1992.

[13] TSN, pp. 1-11, July 21, 1992.

[14] TSN, pp. 2-4, Sept. 16, 1992.

[15] TSN, pp. 2-4, Dec. 21, 1992.

[16] TSN, pp. 2-6, Sept. 17, 1992.

[17] TSN, pp. 3-7, Feb. 2, 1993.

[18] Id., pp. 8-16.

[19] Id., pp. 29-34.

[20] TSN, pp. 1-9, March 23, 1993.

[21] Rollo, p. 15

[22] 184 SCRA 105 (1990).

[23] As amended by Republic Act No. 2632 (dated September 12, 1960) and Republic Act No. 411 (dated March 29, 1965).

[24] 185 SCRA 105, 114-115 (1990) cited in *People v. Campuhan*, G.R. No. 129433, March 30, 2000, *People v. Sampior*, G.R. No. 117691, March 1, 2000, *People v. Quiñanola*, 306 SCRA 710 (1999).

[25] *People v. Ferrer*, 295 SCRA 190 (1998); *People v. Buton*, 272 SCRA 352 (1997).

[26] *People v. Santos*, G.R. No. 127846, October 18, 2000; *People v. Campuhan*, *supra*; *People v. Gajo*, G.R. No. 127749, March 9, 2000; *People v. Sacapaño*, 313 SCRA 650 (1999); *People v. Castronero*, 280 SCRA 421 (1997); *People v. Gabayron*, 278 SCRA 78 (1997).

[27] TSN, p. 3, Feb. 17, 1992.

[28] *People v. Sampior*, *supra*; *People v. Garcia*, 288 SCRA 382 (1998).

[29] *People v. Fraga*, G.R. Nos. 134130-33, April 12, 2000; *People v. Pambid*, G.R. No. 124453, March 15, 2000; *People v. Atienza*, G.R. No. 131820, February 29, 2000; *People v. Molas*, 286 SCRA 684 (1998); *People v. Abad*, 268 SCRA 246 (1997).

[30] *People v. Gastador*, 305 SCRA 659 (1999); *People v. Oliver*, 303 SCRA 73 (1999); *People v. Lopez*, 302 SCRA 669 (1999).

[31] Exh. C (Sworn statement of Fritzie Aca-ac, dated March 1, 1991, in the Cebuano dialect); Documentary exhibits, pp. P-7 to P-9; Exh. D (Translation in English of the said sworn statement); Documentary exhibits, pp. P-10 to P-12.

[32] TSN, pp. 10-13, Jan. 6, 1992.

[33] *People v. Sancha*, G.R. Nos. 131818-19, February 3, 2000; *People v. Perez*, 296 SCRA 17 (1998).

[34] *People v. Fraga*, *supra*; *People v. Acala*, 307 SCRA 330 (1999).

[35] *People v. Pambid*, *supra*; *People v. Torio*, 318 SCRA 345 (1999); *People v. Tresballes*, 314 SCRA 774 (1999); *People v. Leoterio*, 264 SCRA 608 (1996); *People v. Alib*, 222 SCRA 517 (1993).

[36] *People v. Henson*, 270 SCRA 634 (1997).

[37] TSN, pp. 12-14, Dec. 17, 1992.

[38] TSN, pp. 14-17, Dec. 17, 1992.

[39] *Id.*, p. 18.

[40] *Id.*, p. 19.

[41] *People v. Ramos*. G.R. No. 136398, November 23, 2000; *People v. Mosqueda*, 313 SCRA 694 (1999); *People v. Napiot*, 311 SCRA 772 (1999); *People v. Palma*, 308 SCRA 466 (1999); *People v. Manggasin*, 306 SCRA 228 (1999); *People v. Prades*, 293 SCRA 411 (1998); *People v. Gementiza*, 285 SCRA 478 (1998).

[42] *People v. Melendres*, G.R. No. 133999-4001, August 31, 2000; *People v. De los Santos*, 315 SCRA 579 (1999); *People v. Pagpaguitan*, 315 SCRA 226 (1999); *People v. Bañago*, 309 SCRA 417 (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.