

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REY APATAY Y BALO, APPELLANT.

G.R. No. 147965. July 07, 2004

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-147965/>

PER CURIAM:

For automatic review is the Decision[1] dated March 5, 2001 of the Regional Trial Court, Branch 2, Tagbilaran City, in Criminal Case No. 10885 convicting Rey Apatay y Balo, appellant, of rape with homicide and sentencing him to suffer the supreme penalty of death. He was also ordered to indemnify the heirs of the victim, Catalina Baluran, the sum of P100,000.00.

The Information filed against appellant reads:

“The undersigned Assistant Provincial Prosecutor hereby accuses Rey Apatay y Balo of Upper Poblacion I, Sikatuna, Bohol of the crime of Rape with Homicide, committed as follows:

“That on or about the 20[th] day of October 2000 in the municipality of Sikatuna, province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and with force, threat and intimidation, to wit: by entering the house where the victim Catalina Baluran was alone, and once inside put out the light thereof, then dragged the victim to a room and did then and there willfully, unlawfully and feloniously had carnal knowledge by inserting his penis into the victim’s vagina without her consent and against her will, and thereafter, because the victim was able to identify him, did then and there willfully, unlawfully and feloniously attacked, assaulted, choked her neck and then struck the head and face with a firewood, thereby inflicting upon the vital parts of the victim’s body mortal wounds or injuries which resulted directly to the immediate death of the said Catalina Baluran, to the damage and prejudice of the heirs of the victim.

“Acts committed contrary to the provisions of Art. 266-A & 266-B of the Revised Penal Code, as amended by R.A. 7659.”[2]

During his arraignment, appellant was assisted by Atty. Adriano P. Damalerio of the Public Attorney’s Office (PAO). After the Information was read and translated to him in his own Visayan dialect, he entered a plea of guilty to the offense charged.

Immediately, in conformity with the procedural rules, the trial judge asked appellant searching questions to determine whether his plea of guilty is voluntary and whether he understands its consequences. In answer to the questions propounded by the trial judge, appellant declared that his plea is voluntary and that he fully comprehends its consequences.

The trial judge then directed the prosecution to present evidence to prove appellant’s guilt and the degree of his culpability.

Francisca Buchan, Odelion Manco and Dr. Francisco D. Villaflor testified for the prosecution. Their testimonies show that in the early evening of October 20, 2000, 77-year old Catalina Baluran was alone in her house at Sitio Upper Poblacion I, Sikatuna, Bohol. Her niece, Caridad Baluran living with her, was rushed to the hospital by

their neighbors, Francisca Buchan and Odelion Manco, due to an asthma attack. Before they left, they saw appellant Rey Apatay, their neighbor, standing near the door.[3]

The following morning, Francisca and Odelion learned from their neighbors that Catalina could not be found in her house. Alarmed, Francisca, together with some neighbors, went to Catalina's house. Once inside, they saw drops of blood and a piece of firewood on the floor. Immediately, they looked for her. Appellant helped in the search.[4]

On October 22, 2000, the lifeless body of Catalina was found inside the hole of an abandoned toilet. That same day, Dr. Francisco Romulo D. Villaflor, Medical Health Officer of Sikatuna, Bohol, conducted a post-mortem examination on her cadaver and issued a Post Mortem Report[5] showing the following injuries she sustained:

“macerated (L) maxillary area
Extending to zygoma
(L) lateral priodital area.

(+) hematoma/ecchymoses
(R) maxillo-zygomatic area

(+) hematoma area ecchymoses
(L) supraclavicular area

(+) Ecchymoses ant. neck

(+) hamatoma (R) supraclavicular area

(+) hematoma oterral area

(+) Left first degree burn with
sollae 6 cm ru greatest diameter

(+) hematoma (L) inguinal area

(+) hematoma (R) inguinal area
extending to (R) ASIS

hymenal laceration at 6 degrees,
at 9 and 12 o'clock positions

multiple laceration and fracture largest
laceration measuring 4 cm.

CAUSE OF DEATH: massive hemmorage
due to multiple skull fracture.”[6]

Dr. Villaflor testified, confirming the above Report. He stressed that Catalina had vaginal lacerations at “6, 9, and 12 o'clock positions,” indicating that she was a victim of a forcible sexual assault; and that she died due to “massive hemorrhage secondary to multiple skull fracture.”

On October 24, 2000, appellant, overwhelmed by his conscience, surrendered to the Sikatuna Police Station. During the investigation conducted by SPO4 Alfredo G. Luengas, appellant, assisted by his counsel, Atty. Adriano P. Damalerio of the PAO, executed a sworn statement[7] in the Visayan dialect, which was translated into English, wherein he acknowledged being advised by his counsel of his constitutional rights and voluntarily confessed that he raped and killed his neighbor, Catalina Baluran, in the evening of October 20, 2000. He stated therein that he killed Catalina because she recognized him as the culprit. He then choked her, struck her with a

piece of firewood and thereafter threw her body into the hole of an abandoned toilet.

During the hearing, the trial judge asked appellant searching questions and he confirmed the details of his extra-judicial confession.

The defense then opted not to present any evidence in view of appellant's plea of guilty.[8]

On March 5, 2001, the trial court rendered a Decision, the dispositive portion of which states:

“WHEREFORE, in Criminal Case No. 10885, the Court finds accused Rey Apatay guilty beyond reasonable doubt of the crime of Rape with Homicide defined under Article 266-A and penalized under Article 266-B of the Revised Penal Code, and hereby sentences the said accused to suffer the supreme penalty of death, with the accessory penalties of the law, to indemnify the heirs of Catalina Baluran the sum of P100,000.00 and to pay the costs.

“SO ORDERED.”

In assailing the Decision, appellant contends that (a) “the trial court failed to conduct a searching inquiry into the voluntariness and full comprehension by him of the consequences of his plea;” and (b) “the trial court failed to ask him whether he desires to present evidence in his behalf and allow him to do so if he desires.”[9]

The Solicitor General, in his Appellee's Brief,[10] vehemently disputes appellant's contentions, asserting that the trial court did not commit any error in convicting appellant of the crime charged and in imposing upon him the death penalty.

The procedure for arraignment is provided in Section 1, Rule 116 of the Revised Rules of Criminal Procedure, as amended, quoted as follows:

“SEC. 1. Arraignment and plea; how made. –

(a) The accused must be arraigned before the court where the complaint or information was filed or assigned for trial. The arraignment shall be made in open court by the judge or clerk by furnishing the accused with a copy of the complaint or information, reading the same in the language or dialect known to him, and asking him whether he pleads guilty or not guilty. The prosecution may call at the trial witnesses other than those named in the complaint or information.

x x x.” (Underscoring ours)

When an accused pleads guilty to a capital offense, Section 3 of the same Rule specifies the steps to be followed by the trial court, thus:

“SEC. 3. Plea of guilty to capital offense; reception of evidence. – When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may present evidence in his behalf. (3a)”

In *People vs. Flaviano R. Segnar, Jr.*,[11] we ruled that there is no hard and fast rule as to how a judge may conduct a “searching inquiry,” or as to the number and character of questions he may ask the accused, or as to the earnestness with which he may conduct it, since each case must be measured according to its individual merit.[12] The singular barometer is that the judge must, in all cases, fully convince himself that: (1) the accused, in pleading guilty, is doing so voluntarily – meaning, he was not coerced or threatened of physical harm, or placed under a state of duress; and (2) that he is truly guilty on the basis of his testimony. Thus, in determining whether an accused's plea of guilty to a capital offense is improvident, we held that considering their training, we leave to the judges ample discretion, but expect them at the same time that they will be true to their calling and be worthy

ministers of the law and justice.[13]

Here, the above jurisprudential guidelines were faithfully complied with by the trial judge. Records show that during the arraignment, the Information was read to appellant in the Visayan dialect which he speaks and understands. After he entered a plea of guilty, the trial judge properly conducted a searching inquiry translated by the court interpreter into his Visayan dialect.

The proceedings during the arraignment, the trial judge's searching questions and appellant's answers thereto are reproduced hereunder:

"COURT:

Let the accused come forward.

RECORD:(Accused came forward for arraignment and listened to the reading of Information.)

COURT INTERPRETER:

(Read the Information to the accused.)

COURT TO THE COURT INTERPRETER:

Will you please ask the accused whether he understood the Information read and translated to him in the Visayan vernacular?

COURT INTERPRETER TO THE ACCUSED:

RECORD:

(COURT INTERPRETER Asking the accused in the Visayan vernacular if the latter understood the reading of the Information.)

ACCUSED TO THE COURT:

A: Yes, Your Honor, I understand.

COURT TO COURT INTERPRETER:

Will you ask him what is his plea, guilty or not guilty?

COURT INTERPRETER TO THE ACCUSED:

RECORD:

(COURT INTERPRETER asking the accused in the Visayan vernacular of the latter's plea.)

ACCUSED TO THE COURT:

A: Guilty, Your Honor.

COURT:

Enter a plea of guilty as expressed by the accused upon his arraignment today.

COURT:

Let the accused approach the bench.

COURT TO ACCUSED:

Q: You have admitted the guilt for the offense charged?

A: Yes, your Honor.

Q: Is your plea of guilty voluntary?

A: Yes, your Honor.

Q: Nobody had forced you to make this plea of guilty?

A: None, Your Honor.

COURT TO ACCUSED:

Q: Do you know that by pleading guilty, you will be penalized by a death penalty?

A: Yes, Your Honor.

Q: Despite your knowledge that you will be penalized by death, are you still insisting on your plea of guilty?

A: Yes, Your Honor.

Q: So having pleaded guilty voluntarily, you admit that you abused sexually the victim, Catalina Baluran.

A: Yes, Your Honor.

Q: And because of the fact that while having intercourse with her, you realized that she knows you, and that was the time that you decided to choke and strike her with the firewood?

A: Yes, Your Honor.

Q: And you even helped your neighbors in looking for Catalina Baluran?

A: Yes, Your Honor.

Q: When this case was investigated, you voluntarily executed an affidavit of confession duly assisted by your counsel, Atty. Adriano Damalerio?

A: Yes, Your Honor.

COURT TO WITNESS:

Q: I have here signed Extra-Judicial Confession, I am showing to you and please tell me if this is the same Extra-Judicial Confession that you executed in connection with this case with the assistance of your counsel, Atty. Adriano Damalerio?

A: This is the one, Your Honor.

x x x.”[14] (Underscoring ours)

The extra-judicial confession referred to by appellant is quoted as follows:

“Q: Mr. Apatay, I would like to inform you that you are now under investigation regarding your involvement of a rape-slay case of one Catalina Baluran of Sitio Upper Pobalcion I, Sikatuna, Bohol.

I will inform you that under our New Constitution, you have the right to remain silent and never answer to

questions affecting you, and you also have the right to get a counsel who would assist you in this investigation. If you cannot afford to pay a counsel, you will be given one who would assist you.

Q: Do you understand your rights?

A: Yes, I understand.

Q: I would like to remind you that all your statements shall be used in your favor or against you as evidence in court. Do you understand?

A: Yes, I understand.

Q: Now that you know your constitutional rights, do you want to proceed with this investigation now?

A: We will proceed, Sir.

Q: Do you have a counsel to assist you?

A: Here is Atty. Adriano Damalerio, Public Attorney's Office of the Justice Department of Tagbilaran City who will assist me.

WAIVER

That I, Rey Apatay, after having been informed of my rights under the New Constitution do hereby depose that I have the right to remain silent and would never answer questions that might affect me, that I have the right to be assisted by a counsel of my choice, and I also was informed that all my statements shall be made evidence against me or in my favor.

That I understood all and I hereby waive my rights and to tell the whole truth in this investigation.

SGD. REY B. APATAY

Affiant

SGD. IN THE PRESENCE OF:

SGD. ADRIANO P. DAMALERIO

Public Attorney 2

Counsel for the affiant/accused.

Q: Are you now ready to tell the truth in this investigation?

A: Yes, I'm ready.

Q: Please tell us your name and your other personal circumstances?

A: REY APATAY y BALO, 24 years old, single, Filipino, a farmer and residing at Sitio Upper Poblacion I, Sikatuna, Bohol.

Q: Why are you investigated?

A: Because I am guilty of a rape-slay.

Q: Who is the person whom you raped and killed?

A: Catalina Baluran.

Q: Where and when did it happen?

A: At Sitio Upper Poblacion I, Sikatuna, Bohol last Friday evening of October 20,

2000 at 7:30, more or less.

Q: Were there other persons who were also involved in this rape-slay?

A: None.

Q: What was the reason why you raped and killed Catalina Baluran?

A: Because she identified me.

Q: Please tell us the details of the rape-slay.

A: Last Friday night of October 20, 2000 at about 7:30, more or less, I went home.

When I passed by the house of Catalina Baluran, I knew that Caridad, the niece of Catalina and Toribia, the mother of Caridad, would go to the hospital to have Caridad, the sick person, be treated. They were with Odelion and Balbina, also the sister of Caridad. When they left, I peeped at the entire interior of the house. Then I saw Catalina sitting down in the sala alone. So I entered the house thru the broken sink in the kitchen which was barred by a basin. When I entered the house, I put off the light, then I forced Catalina to the room and sexually abused her. She recognized me during the sexual intercourse and she told me, 'Ayaw lagi, Rey!' (or 'Don't Rey!'), meaning, I should stop. Afraid that she recognized me, I killed her by strangulation until she had no voice. Then I went to the stove to get an unconsumed firewood. Then I struck her head and face several times until she was motionless. So I pulled her outside of the house. Then I carried her to the abandoned toilet in the upper ground of their house and dropped her into the hole.

Q: What did you do after you dropped her to the toilet?

A: I walked towards the house of Andres Daplin, then I slept there.

Q: The following day, Saturday, where did you go?

A: I helped the people who were searching for Catalina.

Q: That day, Saturday, was Catalina found?

A: No.

Q: What day did they find Catalina?

A: Last Sunday, October 22, 2000, she was seen by Rene Gabato with the

organization (who render funeral service) then searching, and that was the time I felt having a conscience and I confessed to Rene Gabato and SPO3 Dalagan that I was responsible for the incident of rape-slay to Catalina.

Q: The investigator has nothing to ask, do you have more to declare?

A: No more, except when asked.

Q: Will you sign your affidavit voluntarily that nobody had forced you to do so?

A: Yes, I will sign.

IN WITNESS WHEREOF, I have hereunto affixed my signature this 24[th] day of October, 2000 at Tagbilaran City, Bohol, Philippines.

SGD. REY B. APATAY

Affiant

Assisted by:

SGD. ATTY. ADRIANO P. DAMALERIO

Public Attorney 2,

Public Attorney's Office

Department of Justice

Tagbilaran City"[15]

Appellant's answers to the trial judge's questions are spontaneous and categorical. He declared that his confession (that he committed the crime) is voluntary and that nobody forced him to do so. He also manifested full understanding of the consequences of his plea, specifically that the imposable penalty upon him is death. Yet, he would not change his plea.

The trial court required the prosecution to present evidence for the purpose of establishing appellant's guilt and the precise degree of his culpability, in compliance with Section 3 of Rule 116, quoted earlier. Significantly, Dr. Francisco Romulo Villaflor testified that Catalina was sexually assaulted and died due to massive hemorrhage secondary to multiple skull fracture. Francisca Buchan and Odelion Manco also testified, declaring that they saw appellant standing near the door of the victim's house just before the incident occurred.

Appellant's confession contains details of the rape-slay perpetrated against Catalina which only he could know and reveal. On his contention that the trial court failed to ask him whether he intends to present evidence on his behalf, suffice it to say that the defense "opted not to present any evidence considering the accused's plea of guilty." [16]

Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353, provides:

"ART. 266-A. Rape, When and How Committed. – Rape is committed –

- By a man who shall have carnal knowledge of a woman under any of the following circumstances:
- Through force, threat or intimidation;
- When the offended party is deprived of reason or otherwise unconscious;
- By means of fraudulent machinations or grave abuse of authority;
- When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances above be present;
- By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person." (Underscoring ours)

Here, it is clear from the appellant's extra-judicial confession and the evidence for the prosecution that he had carnal knowledge of Catalina Baluran through force.

Article 266-B of the same law further mandates that "When by reason or on the occasion of the rape, homicide is committed, the penalty shall be death." The same single and indivisible penalty shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the offense. [17]

The trial court, therefore, correctly found appellant guilty beyond reasonable doubt of rape with homicide and properly imposed upon him the death penalty.

We sustain the trial court's award to the victim's heirs of the sum of P100,000.00 as civil indemnity, P50,000.00 for rape and P50,000.00 for the death of the victim. This is in line with our recent ruling in *People vs. Manguera*. [18] In addition, they are entitled to moral damages of P75,000.00 without need of pleading or proof of the basis thereof since the anguish and pain they endured are evident. [19]

The trial court did not award actual damages, obviously because the victim's heirs did not present proof of funeral expenses incurred. To be entitled to such damages, it is necessary to prove the actual amount of loss with a

reasonable degree of certainty, premised upon competent proof and on the best evidence obtainable to the injured party.[20] In *People vs. Abrazaldo*,[21] we held that where, as here, the amount of actual damages cannot be determined because no receipts were presented to prove the same, but it is shown that the heirs are entitled thereto, temperate damages may be awarded, fixed at P25,000.00. Considering that funeral expenses were obviously incurred by Catalina's heirs, an award of P25,000.00 as temperate damages is proper.[22]

Three members of this Court maintain that Republic Act No. 7659 is unconstitutional insofar as it prescribes the death penalty. Nevertheless, they submit to the ruling of the majority that the law is constitutional and that the death penalty can be lawfully imposed herein.

WHEREFORE, the appealed Decision dated March 5, 2001 of the Regional Trial Court, Branch 2, Tagbilaran City, in Criminal Case No. 10885, finding appellant Rey Apatay y Balo guilty beyond reasonable doubt of the crime of rape with homicide and sentencing him to suffer the penalty of DEATH, is hereby AFFIRMED with MODIFICATION in the sense that he is ordered to pay the heirs of Catalina Baluran P75,000.00 as moral damages and P25,000.00 as temperate damages, in addition to the trial court's award of P100,000.00 as civil indemnity.

In accordance with Section 25 of R.A. 7659, amending Article 83 of the Revised Penal Code, upon the finality of this Decision, let the records of this case be forwarded to the Office of the President of the Philippines for the possible exercise of her pardoning power.

Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

[1] Penned by Judge Baudilio K. Dosdos; Rollo at 12-16.

[2] Rollo at 16.

[3] Transcript of Stenographic Notes (TSN), February 23, 2001 at 4-5, 8-10; Exhibit "B" (Francisca Buchan's Affidavit), Folder of Exhibits at 5-6; & Exhibit "D" (Odelion Manco's Affidavit) at 9-10.

[4] TSN, February 23, 2001 at 4-5, 8-10.

[5] Exhibits "F" and "F-1", Folder of Exhibits at 13-14.

[6] Id.

[7] Exhibit "A", Folder of Exhibits at 1-4; TSN, January 24, 2001 at 3-5.

[8] TSN, February 23, 2001 at 19.

[9] Appellant's Brief, Rollo at 84-85.

[10] Rollo at 122-162.

[11] G.R. No. 133380, February 18, 2004.

[12] Citing *People vs. Dayot*, G.R. No. 88281, July 20, 1990, 187 SCRA 637, 643.

[13] Id.

[14] TSN, January 24, 2001 at 2-5.

[15] Exhibit “A” – Translation.

[16] TSN, February 23, 2001 at 19.

[17] Article 63, Revised Penal Code.

[18] G.R. No. 139906, March 5, 2003; *People vs. Payot*, 308 SCRA 43; *People vs. Seranilla*, 348 SCRA 227.

[19] *People vs. Jose Santos y Ruiz*, G.R. Nos. 137828-33, March 23, 2004; *People vs. Magallanes*, G.R. No. 136299, August 29, 2003.

[20] *People vs. Segnar, Jr.*, G.R. No. 133380, February 18, 2004, citing *People vs. Acosta*, 371 SCRA 181 (2001); *People vs. Samolde*, 336 SCRA 632 (2000).

[21] G.R. No. 124392, February 7, 2002, cited in *People vs. Segnar, Jr.*, *supra*.

[22] *Id.*; *People vs. Manguera*, *supra*.

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.