

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RYAN TORRES Y CERVANTES, APPELLANT.

G.R. No. 149557. March 16, 2004

Ponente: VITUG, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-149557/>

VITUG, J.:

In its decision, dated 01 June 2001, the Regional Trial Court, Branch 31, of San Pedro, Laguna, convicted appellant Ryan Torres y Cervantes of robbery with rape and sentenced him to suffer the penalty of death.

Ryan Torres y Cervantes was charged with the crime of robbery with rape in an information that read:

“That on or about August 26, 1999, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, said accused, armed with a bladed knife and with intent to gain did then and there willfully, unlawfully and feloniously with violence against and intimidation of person take, steal and carry away at knife’s point the sum of TWENTY SIX PESOS (P26.00), Philippine Currency, belonging to Rhosella Marie Burlagda y Nuguit; that on the occasion or by reason of said robbery the said accused, then and there willfully, unlawfully and feloniously by means of force, violence, intimidation and threat had carnal knowledge of said RHOSELLA MARIE BURLAGDA y NUGUIT, against her will, and to her damage and prejudice.”[1]

The case for the prosecution. —

Private complainant Rhosella Marie Burlagda, said to be 13 years of age and a first year high school student, testified that on 26 August 1999, around 5:45 a.m., she was walking along the town proper of San Pedro, Laguna, on her way to school in Muntinlupa City. Suddenly, a man, whom she later identified to be appellant Ryan Torres, held her up at knife point and demanded to hand over to him her money. After she gave him twenty-six pesos (P26.00), appellant put his arm around her shoulder and covered her mouth with a handkerchief while poking a “balisong” at her. Appellant ordered her not to shout. He then forced her towards an alley on the side of the public market. Upon reaching the highway, they boarded a tricycle and proceeded to Elvinda Village, San Pedro, Laguna. He took her to an abandoned house inside a compound. Before entering the house, appellant tied her feet with the strap of his bag and her hands with the cord of her school I.D., gagged her mouth with his handkerchief, and secured her to a tree using his belt bag strap. Appellant then took a ladder and used it to enter the house through a small opening. Rhosella was then brought by appellant inside the house.

Once inside, appellant showed her a picture of his wife. Appellant told private complainant that he “felt hot.” He removed his pants exposing his penis. He removed her blouse. He got a piece of newspaper and spread it on the floor. He proceeded to remove the victim’s underwear and shorts. He lifted her and laid her down on the newspaper. Appellant then placed himself on top of her and tried to insert his penis into her vagina while kissing and touching the different parts of her body. Rhosella tried to struggle away from him but she was unsuccessful. She felt pain even if appellant was unable to fully insert his penis into her vagina. Abruptly, a noise coming from outside the house prompted appellant to immediately withdraw and to dress up. Appellant then wiped the wall

using her shorts to erase the fingerprints on it and fled. After appellant left, Rhosella was able to untie herself. Hurriedly, she sought the help of a tricycle driver who brought her to McDonalds, a restaurant, located at the town proper where she boarded a passenger jeep in going back home.

Arriving home between 7:00 to 7:30 a.m., she immediately narrated the incident to her mother. Forthwith, they proceeded to the San Pedro Police Station to report the incident. She later submitted herself to a physical examination at the National Bureau of Investigation (NBI).

The NBI medico-legal officer, Dr. Ida de Perio-Dumul, testified that she examined the victim on 26 August 1999, and while the latter showed no hymenal laceration, Dr. de Perio-Dumul noted two (2) reddish contusions on the victim's vagina which appeared to have been inflicted within a 24-hour period preceding the examination. According to Dr. de Perio-Dumul, most of the young rape victims she had examined showed labia penetration with no extra-genital physical injury and laceration of the hymen because of the difficulty in having the male organ into a partially developed vagina. She opined that since the orifice of private complainant's vagina only measured 1.5 diameters, it was possible that a mere partial or an incomplete hymenal penetration resulted in the sexual assault.

On 09 September 1999, the San Pedro, Laguna, police arrested appellant. Indicted for the special complex crime of robbery with rape, appellant, on arraignment, entered a plea of not guilty.

The case for the defense. —

Appellant denied the accusation against him. He claimed that on 26 August 1999, he had left his house at GMA, Cavite, at around 6:15 a.m. to report for work at the EDSA Shangri-la Hotel in Mandaluyong City. He boarded a passenger jeepney bound for San Pedro, Laguna, where he got off along the national highway near a gasoline station and the public market at between 6:45 to 7:00 a.m. from where he boarded a passenger bus bound for Mandaluyong City. He arrived at his place of work at 9:30 a.m. He was informed, however, that he was not among those scheduled to work on that day. He stayed at the hotel for about three hours before he left for the house of his mother in Antipolo, Rizal, arriving thereat at about 1:30 p.m. He stayed at his mother's house to spend the night. The following morning, he went back to the hotel where he was able to get a slot in the list of waiters for the day. After working, he returned to his house in GMA, Cavite, arriving thereat around 10:00 p.m.

The judgment of the trial court. —

The trial court concluded that appellant had indeed committed the crime with which he was charged; it held:

“WHEREFORE, the Court hereby sentences accused Ryan Torres y Cervantes to suffer the penalty of death; to pay private complainant Rhosella Burlagda the sums of P26.00 as actual damages, P50,000.00 as indemnity ex delicto and another P50,000.00 as moral damages. Costs against the accused.”[2]

Appellant's case is now before the Court on automatic review.

In seeking to establish his innocence, appellant assails the reliance made by the trial court on the testimony of private complainant which, he argues, is uncorroborated and replete with inconsistencies.

The Court has closely examined the records, and it has found nothing so substantial as to warrant a reversal of the assessment made by the trial court on the narration given by the young victim of the incident. The alleged inconsistency in her testimony with respect to the time when the picture of the wife of appellant has been shown to her, whether before or after the rape incident, is but a minor point which does not seriously affect her credibility. The matter is trivial in nature, and it does not in anyway put a dent on the evidence of rape.[3] It is not unnatural for inconsistencies to in fact creep into the testimony of a rape victim in recounting the details of a

harrowing experience.[4] There is no evidence to show that private complainant has been motivated by any improper motive to testify against appellant. Indeed, private complainant's act of immediately reporting the matter, first to her mother and then to the authorities, is a factor that strengthens her credibility.[5]

Even in the absence of corroborative testimony of other witnesses, the straightforward testimony of a rape victim should suffice. Rape, by its nature, is usually committed in a place where only the rapist and the rape victim are present.[6] In a rape case, the prosecution is not bound to present witnesses other than the victim herself, and an accused may be convicted solely on the testimony of the complaining witness provided such testimony is credible, natural, convincing and otherwise consistent with human nature and the course of things. The declaration at the witness stand of young victims is often given credit, and it is when the courts would readily accept the rule that when such a victim says that she has been raped, she is held to state, in effect, all that would be necessary to show that rape has indeed been committed against her.[7]

This Court is not persuaded by appellant's assertion that there has been no penetration whatsoever of the sex organ of Rhosella. Observe what she has said in open court –

“Q.

After removing your clothes, what did the accused do to you?

“A.

He tried to and then he raped me, sir.

“Q.

Did his penis touch your vagina?

“A.

Yes, sir.

“Q.

How did you know that?

“A.

It was so painful, sir.

“Q.

How long did that thing go on, that touching, go on? If you can still recall?

“A. I do not know anymore but it was painful while inserting it, sir.

“X X X

X X X

X X X

“PROS. LOMARDA:

“Q.

You said that while the accused was inserting his penis you felt pain. In which part of your body did you feel pain?

“A.

In my vagina, sir.

“Q.

And while inserting his penis into your vagina, you felt pain, what was your position in relation to the floor?

“A.

He was on top of me, sir.

“Q.

How about you?

"A.

“I was lying, sir.

“QUESTIONS OF THE COURT:

“Q.

You mean to tell the Court that accused was able to penetrate you?

“A.

Yes, maam.

“Q.

So the private part of the accused did not merely touch but he was able to penetrate into your private part?

“A.

No, maam.

“Q.

What do you mean?

“A.

It touched and I felt pain, maam.

“Q.

Let’s clarify this. What is true and correct, the private part of the accused merely touching your private part or the private part of the accused entering your private part?

“A.

It touched, maam.”[8]

Full penetration of the victim’s genital organ is not required in order to sustain a conviction for rape. The act performed by appellant cannot be classified as being a mere “epidermal contact,” “stroking or grazing of organs,” as so held in *People vs. Campuhan*,[9] but an entry of the penis, albeit slight or incomplete, into the labia of the pudendum.

In a number of cases,[10] this Court has held that even where penetration is not fully established, a consummated rape can still be anchored on the victim’s testimony that she has felt pain in the attempt of penetration.

Rhosella has positively and categorically identified appellant to be her assailant. She has had a fairly good look at his face, with not slightest attempt on his part to cover or shield himself at any time before, during and after the assault.[11] Most certainly, this declaration prevails over the denial and alibi of appellant, both negative and self-serving, which defenses are often considered to be undeserving of weight in the absence of clear and convincing evidence.[12] In any event, based on appellant’s own testimony, it would take only about thirty minutes from GMA, Cavite, to reach the San Pedro market,[13] a statement that can hardly support the defense of alibi.

Robbery with rape occurs when the following elements are present: (1) Personal property is taken with violence or intimidation against persons, (2) the property taken belongs to another, (3) the taking is done with *animo lucrandi*, and (4) the robbery is accompanied by rape.[14] The elements have sufficiently been established in evidence as hereinbefore so narrated.

There is sufficient reason, however, to sustain appellant’s argument that the trial court has erred in the imposition of the penalty of death.

Under Article 294[15] of the Revised Penal Code, as amended, robbery with rape is penalized by reclusion perpetua to death. The penalty being a range consisting of two (2) indivisible penalties, the lesser penalty is

applied when, pursuant to Article 63[16] of the Revised Penal Code, there are no mitigating or aggravating circumstance that are shown to be in attendance. The use by appellant of a knife was the means availed of to perpetrate the crime and to qualify it as being one of robbery with rape. The use of deadly weapon is here a qualifying circumstance, and not being among the aggravating circumstances enumerated in Article 14 of the Revised Penal Code, it cannot also be regarded as a generic aggravating circumstance.[17]

WHEREFORE, the decision of the Regional Trial Court of San Pedro, Laguna, Branch 31, in Criminal Case No. 1600-SPC finding appellant Ryan Torres y Cervantes GUILTY beyond reasonable doubt of the crime of robbery with rape, as well as awarding damages to the victim, is AFFIRMED with the MODIFICATION that the penalty of death therein imposed is reduced to reclusion perpetua. Costs de oficio.

SO ORDERED.

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

Puno, J., on leave.

Panganiban, J., on official leave.

[1] Records, p. 1.

[2] Rollo, p. 92.

[3] People vs. Barita, 325 SCRA 22.

[4] People vs. Campanes, 336 SCRA 439.

[5] People vs. Asuncion, 358 SCRA 661.

[6] People vs. Cabingas, 329 SCRA 21.

[7] People vs. Gabayron, 278 SCRA 78.

[8] TSN, 27 September 2000, pp. 7-8

[9] 329 SCRA 270.

[10] People vs. Villamayor, 199 SCRA 472; People vs. Palicte, 229 SCRA 543; People vs. Sanchez, 250 SCRA 14; People vs. Gabris, 258 SCRA 663; People vs. Gabayron, 278 SCRA 78.

[11] TSN, 11 October 2000, pp. 17-19.

[12] People vs. Dumayan, 358 SCRA 26.

[13] TSN, 14 February 2001, p. 13.

[14] People vs. Domingo, 383 SCRA 43.

[15] ART. 294. Robbery with violence against or intimidation of persons – Penalties. – Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

- The penalty of from reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of

homicide shall have been committed; or when the robbery shall have been accompanied by rape or intentional mutilation or arson;

- The penalty of reclusion temporal in its medium period to reclusion perpetua, when or if by reason or on occasion of such robbery, any of the physical injuries penalized in subdivision 1 of Article 263 shall have been inflicted;

- The penalty of reclusion temporal, when by reason or on occasion of the robbery, any of the physical injuries penalized in subdivision 2 of the article mentioned in the next preceding paragraph, shall have been inflicted;

- The penalty of prision mayor in its maximum period to reclusion temporal in its medium period, if the violence or intimidation employed in the commission of the robbery shall have been carried to a degree clearly unnecessary for the commission of the crime, or when in the course of its execution, the offender shall have inflicted upon any person not responsible for its commission any of the physical injuries covered by subdivisions 3 and 4 of said article 263;

- The penalty of prision correccional in its maximum period to prision mayor in its medium period in other cases.

[16] ART. 63. Rules for the application of indivisible penalties. — In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

- When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.

- When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

- When the commission of the act is attended by some mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied.

- When both mitigating and aggravating circumstances attended the commission of the act, the courts shall reasonably allow them to offset one another in consideration of their number and importance, for the purpose of applying the penalty in accordance with the preceding rules, according to the result of such compensation.

[17] See *People vs. Oranza*, 385 SCRA 209; *People vs. Cula*, 329 SCRA 101.

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.