

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FILOMINO LIZANO Y MARVILLA APPELLANT.

G.R. NO. 174470 (Formerly G.R. Nos. 159844-46). April 27, 2007

Ponente: TINGA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-174470/>

TINGA, J.:

For consideration is an appeal by Filomino Lizano y Marvilla[1] (appellant) from the Decision[2] dated 28 April 2006 of the Court of Appeals in CA-G.R. CR-H.C. No. 01659, affirming the 30 May 2003 Decision[3] of the Regional Trial Court (RTC) of Calauag, Quezon, which found him guilty beyond reasonable doubt of the crime of rape.

On 20 February 1997, appellant was charged with three (3) counts of rape in three (3) separate Informations, which, except for the date, similarly read as follow:

That on or about the month of January 1996, at Sitio San Jose Ilaya, Barangay Sta. Cecilia, in the Municipality of Tagkawayan, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, who is the uncle of the offended party, with lewd design, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one [AAA],[4] a minor, 11 years of age, against her will.

Contrary to law.[5]

The two (2) other Informations[6] alleged that appellant had raped AAA on 18 and 19 January 1997, respectively.

Appellant pleaded not guilty on all three charges. Trial then proceeded.

The victim, AAA, testified that she had been staying in her grandmother's house in Barangay Sta. Cecilia, Tagkawayan, Quezon, together with appellant and his wife, BBB who is AAA's aunt. Sometime in January 1996, AAA, who was then only 11 years old, was sleeping inside the house when appellant lay down beside her and began undressing her while threatening to kill her, her grandmother and aunt should she reveal his acts to anybody. Afterwards, appellant also took off his clothes. He then went on top of AAA and inserted his penis into her vagina, causing her to feel pain.[7] A year later, on 18 January 1997, appellant raped AAA again. The following day, at around 10:30 a.m., appellant raped her for the third time. She, however, declared during direct-examination that there were only slight penetrations in these two occasions.[8] AAA was only forced to disclose the incident to an uncle, a brother of her mother, upon the prodding of BBB, who chanced upon AAA while inside the room of appellant.[9]

The prosecution also presented CCC to testify on the age of her daughter, AAA. CCC stated in court that AAA was born on 14 May 1985.[10] AAA's birth certificate[11] attesting to the same data was likewise presented in court.

The third witness for the prosecution was Delia Mayuga Ayuda, a Medical Clerk at the Tagkawayan District Hospital, whose duty was to keep all the files of the patients in the hospital. She identified the signature of Dr.

Juvy Paz Purino in the Medico-Legal Certificate which contained the following findings:

-superficial lacerations at 6 o'clock and 8 o'clock positions, hymen

NOI- Allegedly raped by someone

DOI- January 18, 1997

TOI- P.M.

POI- San Jose Tagkawayan, Quezon[12]

Appellant testified on his behalf, raising denial and alibi as defenses. Appellant denied raping AAA sometime January 1996.[13] He averred that on 19 January 1997, he was driving his tricycle the whole day and got home 11 a.m. the next day. He however recalled an incident where he asked AAA to get a spare part of a tricycle in the living room. Unable to follow his orders, appellant followed AAA inside the house. It was at that moment when his wife, BBB, arrived and accused him of raping AAA.[14] Appellant maintained that BBB had induced AAA to charge him with rape because of their frequent quarrels.[15]

The trial court found the first incident of rape as credible and found appellant guilty in Criminal Case No. 2857-C. However, he was acquitted in Criminal Case Nos. 2858-C and 2859-C for insufficiency of evidence.[16]

From the decision in Criminal Case No. 2857-C, appellant directly appealed to this Court. Conformably with our ruling in *People v. Mateo*,[17] the appeal was remanded to the Court of Appeals for intermediate review.

On 28 April 2006, the Court of Appeals promulgated a Decision dismissing the appeal and affirming in toto the decision of the RTC.

Both parties opted not to file Supplemental Briefs and instead adopted their Briefs before the appellate court.[18]

In this appeal, appellant contends that the prosecution's evidence is insufficient to sustain his conviction, especially taking into account the alleged delay on the part of the victim in reporting the rape. Thus, the resolution of this case hinges on the straightforward issue of whether the prosecution was able to establish appellant's guilt beyond reasonable doubt based on the complainant's testimony.

In the prosecution of rape cases, conviction or acquittal depends on the credence to be accorded to the complainant's testimony because of the fact that usually the participants are the only witnesses to the occurrences.[19] Thus, the issue boils down to credibility. Significantly, findings of fact of the trial court should not be disturbed on appeal since conclusions as to the credibility of witnesses in rape cases hinge heavily on the sound judgment of the trial court which is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying.[20]

In the case at bar, the trial court aptly observed:

In the first incident, the private complainant AAA then an 11 years old [sic] girl in a clear, convincing and straightforward manner testified how the accused Filomino Lizano undressed her and then afterwards, he undressed also, put himself on top of her and inserted his penis to her private part. AAA clearly stated that the accused's penis was able to fully penetrate her vagina and it was painful. . . Her clear account of the first incident of rape unequivocally show that she was indeed raped by the accused Filomino Lizano.[21]

We find no cogent reason to depart from these findings. During the direct examination, AAA recounted the rape incident and positively identified appellant as the perpetrator, thus:edwino

Q: Do you know this Filomino Lizano?

A: Yes, sir.

Q: Why do you know him?

A: He is the husband of my auntie, sir.

x x x x

Q: If this Filomino Lizano is in Court, will you be able to point to him?

A: Yes, sir.

Q: Please do so. (Witness pointing to a man who identified himself to be Filomino Lizano).

Q: Now, in January, 1996, how old were you then?

A: 11 years old, sir.

Q: And on that month, do you remember any unusual incident that happened to you?

A: Yes, sir.

Q: And what was that unusual incident?

A: I was raped by Filomino Lizano, sir.

Q: Where?

A: In the house of my grandmother, sir.

Q: Where is that house of your Lola located?

A: In Brgy. Sta. Cecilia, Tagkawayan, Quezon.

Q: Will you tell or relay to this Court that particular incident that you are referring to that you were raped by Filomino Lizano?

A: He slept beside me, sir.

Q: And after sleeping beside you, what did he do if he did anything?

A: He undressed me, sir.

Q: After undressing you, did he do anything more?

A: He told me not to tell anybody.

Q: And did he tell you what will happen if you will tell anyone about that incident?

x x x x

WITNESS:

Because if I inform [sic] about the incident, he will kill us, sir.

FISCAL BONIFACIO

Q: When you say "us," whom was he referring to?

A: My grandmother, auntie, and myself, sir.

Q: After he undressed you, is there anything more he did?

A: He undressed himself also, sir.

Q: Then anything more?

A: He put himself on top of me, sir.

Q: And when he put himself on top of you, did he do anything more?

A: He entered his penis to my private part, sir.

Q: Do you know if he was able to fully penetrate his penis on your private part?

A: Yes, sir.

Q: What did you feel when he was doing that?

A: It was painful, sir.[22]

In her sworn statement[23] taken before the Police Station in Tagkawayan Quezon, AAA narrated the same details contained in her testimony before the trial court.

These positive declarations bolster the inevitable conclusion that appellant had indeed raped AAA. The trial court correctly lent credence to the straightforward version of the victim as against the bare denial by appellant. It has been an oft-repeated rule that mere denial, if unsubstantiated by clear and convincing evidence, has no weight in law and cannot be given greater evidentiary value than the positive testimony of a rape victim.[24] 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. [25]

Appellant's main argument, however, is premised on the delay incurred by the victim in reporting the crime. Appellant underscores the failure of the victim to report the alleged rape which occurred in January 1996 even when there was no showing that appellant was continuously threatening her after the said incident.[26]

His does not persuade.

The Solicitor General correctly points out that delay in reporting a rape incident does not impair the credibility of the victim in the face of threats of death or physical violence.[27] Indeed, delay in revealing the commission of rape is not an indication of a fabricated charge. Such intimidation must be viewed in light of the victim's perception and judgment at the time of the commission of the crime and not by any hard and fast rule. It is enough that the intimidation produces a fear that if the victim does not yield to the perverse impulses of the accused, something would happen to her at the moment, or even thereafter, as when she is threatened with death if she would report the incident.[28]

AAA satisfactorily explained the delay. Appellant threatened to kill her, her grandmother and aunt should she report the incident to anybody.[29] This immediate threat directed at AAA, who was then only eleven (11) years old, engendered fear on her part to reveal the unpleasant incident. A rape victim cannot, after all, be expected to summon the courage to report a sexual assault committed against her person, where the act was accompanied by a death threat.[30]

Under Article 335 of the Revised Penal Code, rape, which is punishable by reclusion perpetua is committed by having carnal knowledge of a woman under any of the following circumstances:

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious;
- When the woman is under twelve years of age or is demented.

Hence, the trial court correctly imposed the penalty of reclusion perpetua for the rape of AAA, who was then under 12 years old, as proven by the prosecution through the testimony of her mother and the presentation of AAA's birth certificate. We affirm the trial court's award of civil indemnity and moral damages each in the amounts of P50,000.00 in line with current jurisprudence.[31] Civil indemnity is automatically imposed upon the accused without need of proof other than the fact of the commission of rape. Moral damages is also automatically granted in rape cases without need of further proof other than the commission of the crime because it is assumed that a rape victim had actually suffered moral injuries entitling her to such award.[32]

WHEREFORE, in view of the foregoing, the Decision of the Court of Appeals dated 28 April 2006 is AFFIRMED. Appellant FILOMINO LIZANO y MARVILLA is hereby found guilty beyond reasonable doubt of statutory rape and is sentenced to suffer the penalty of reclusion perpetua, and is ordered to pay the victim the amounts of P50,000.00 as civil indemnity and P50,000.00 as moral damages.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Velasco, Jr., JJ., concur.

[1] Also referred to as Filomeno Lizano in the pleadings filed with this Court by the Office of the Solicitor General as appearing in the records.

[2] Penned by Associate Justice Conrado M. Vasquez, Jr. and concurred in by Associate Justices Mariano C. Del Castillo and Magdangal M. De Leon.

[3] Presided by Judge Mariano A. Morales, Jr.

[4] Pursuant to Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real name of the victim, together with that of her immediate family members, is withheld and fictitious initials instead are used to represent her, both to protect her privacy. *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006, 502 SCRA 419.

[5] CA rollo, p. 14. Information in Crim. Case No. 2857-C.

[6] Information in Crim. Case Nos. 2858-C and 2859-C, respectively.

[7] TSN, 29 February 2000, pp. 5-7.

[8] *Id.* at 9-10.

[9] TSN, 11 July 2000, pp. 13-16.

[10] TSN, 3 October 2000, p. 3.

[11] Records, p. 202.

[12] *Id.* at 205.

[13] TSN, 28 May 2002, p. 5.

[14] *Id.* at 3-4.

[15] *Id.* at 10.

[16] CA rollo, p. 30.

- [17] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.
- [18] Rollo, pp. 15-19.
- [19] *People v. Rosales*, G.R. No. 124920, 372 Phil. 663, 670 (1999).
- [20] *People v. Arnaiz*, G.R. No. 171447, 29 November 2006.
- [21] CA rollo, pp. 28-29.
- [22] TSN, 29 February 2000, pp. 4-7.
- [23] Records, pp. 200-201.
- [24] *People v. Arsayo*, G.R. No. 166546, 26 September 2006, citing *People v. Esperas*, G.R. No. 128109, 19 November 2003, 416 SCRA 216, 225-226; *People v. Mabonga*, G.R. No. 134773, 29 June 2004, 433 SCRA 51, citing *People v. Pancho*, G.R. Nos. 136592-93, 27 November 2003, 416 SCRA 506.
- [25] *People v. Torres*, G.R. No. 170837, 12 September 2006, 501 SCRA 591, 611-612, citing *People v. Macalaba*, 443 Phil. 565, 578 (2003); *People v. Esperanza*, G.R. Nos. 139217-24, 453 Phil. 54, 75 (2003), citing *People v. Alvero*, G.R. Nos. 134536-38, 5 April 2000, 329 SCRA 737, 756; *People v. Ugang*, G. R. No. 144036, 431 Phil. 552, 566 (2002).
- [26] Rollo, p. 57.
- [27] *Id.* at 91.
- [28] *People v. Bon*, G.R. No. 166401, 30 October 2006.
- [29] *Supra* note 5.
- [30] *People v. Mantis*, G.R. Nos. 150613-14, 29 June 2004, 236 SCRA 237-238, citing *People v. Satioquia*, G.R. No. 125689, 23 October 2003, 414 SCRA 60, 65.
- [31] *People v. Bang-ayan*, G.R. No. 172870, 22 September 2006, 502 SCRA 658, 671; *People v. Candaza*, G.R. No. 170474, 16 June 2006, 491 SCRA 280, 298; *People v. Suarez*, G.R. Nos. 153573-76, 15 April 2005, 456 SCRA 333, 352.
- [32] *People v. Arango*, G.R. No. 168442, 30 August 2006, 469 SCRA 646, 670, citing *People v. Dimaano*, G.R. No. 168168, 14 September 2005, 469 SCRA 647.

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.