

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MARCELINO RAMOS, APPELLANT.

G.R. No. 179030. June 12, 2008

Ponente: CARPIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-179030/>

CARPIO, J.:

The Case

This is an appeal from the 15 May 2007 Decision[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 02403 which affirmed the Decision of the Regional Trial Court of Mandaluyong City, Branch 211, in Criminal Case Nos. MC98-311-H to 314-H, entitled "People of the Philippines v. Marcelino Ramos," finding the appellant guilty of four counts of Rape.

The Facts

The prosecution charged appellant with raping his minor daughter AAA on four separate occasions taking place over the years 1991 to 1996.

In Criminal Case No. MC98-311-H, the prosecution charged appellant with the crime of statutory rape:

Criminal Case No. MC98-311-H:

"That sometime in the middle part of 1991 up to April, 1993, in Mandaluyong City, and within the jurisdiction of this Honorable Court, accused MARCELINO RAMOS, by taking advantage of his moral ascendancy over his then ten (10) year old biological daughter, AAA, and with lewd design, and by means of threat, violence and intimidation employed upon the person of said victim, AAA, did then and there unlawfully, willfully and feloniously lie and succeeded in having sexual intercourse with his minor-daughter, against the latter's will." [2]

The prosecution likewise charged appellant with three counts of rape as defined and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, in relation to Republic Act No. 7610:

Criminal Case No. MC98-312-H:

"That sometime in April, 1993 up to the middle part of 1994, in Mandaluyong City, and within the jurisdiction of this Honorable Court, accused MARCELINO RAMOS, by taking advantage of his moral ascendancy over his then twelve (12) year old biological daughter, AAA and with lewd design, and by means of threat, violence and intimidation, did then and there, unlawfully, willfully, and feloniously lie and succeeded in having sexual intercourse with his minor-daughter AAA, against the latter's will." [3]

Criminal Case No. MC98-313-H:

"That sometime in the middle part of 1994 up to June, 1996, in Mandaluyong City and within the jurisdiction of this Honorable Court, accused MARCELINO RAMOS, by taking advantage of his moral ascendancy over his then thirteen (13) year old biological daughter AAA, and with lewd design, and by means of threat, violence and intimidation employed upon the person of said victim, AAA did then and there unlawfully,

willfully and feloniously lie and succeeded in having sexual intercourse with his minor-daughter, against the latter's will." [4]

Criminal Case No. MC98-314-H:

"That sometime in July, 1996, up to the middle part of November, 1996, in Mandaluyong City, and within the jurisdiction of this Honorable Court, accused MARCELINO RAMOS, by taking advantage of his moral ascendancy over his the fifteen (15) year old biological daughter, AAA, and with lewd design, and by means of threat, violence and intimidation, did then and there unlawfully, willfully and feloniously lie and succeeded in having sexual intercourse with his minor-daughter, AAA causing the latter to get pregnant." [5]

Upon arraignment, appellant pleaded not guilty.[6] Thereafter, trial ensued.

Version of the Prosecution

During the trial, AAA testified that her father, the appellant, first raped her when she was 10 years old at their home in Mandaluyong City. According to AAA, one morning, appellant called her to their room to give him a back massage. After the massage, appellant asked AAA to step down, removed AAA's shorts and touched her private parts. Appellant then forced his penis into AAA's vagina. Afterwards, appellant told her that he would kill her if she tells anyone of the incident. Appellant then told her to leave the room.

According to AAA, her father continued to sexually molest her from 1991 up to 1996. This would take place around two to three times a week. The last time appellant raped her was in November of 1996.

AAA further testified that on 3 December 1996, her mother brought her to a "manghihilot" because she observed that AAA's stomach was getting bigger. There it was discovered that AAA was several months pregnant. She then confessed to her mother that it was her father who impregnated her.

Dr. Lolita Largado-Reyes, the physician who conducted a pelvic ultrasound examination of AAA at the Medical Center Muntinlupa, also testified for the prosecution. Dr. Reyes stated on the witness stand that when she examined the victim on 15 January 1997, AAA was in the second trimester of her pregnancy.[7]

Version of the Defense

For his defense, appellant merely denied raping his daughter. He surmised that AAA filed charges against him because she was pregnant with her boyfriend's child and was afraid that appellant would beat her up when he learns of her pregnancy.

DDD and EEE, both sisters of the victim, took the witness stand in defense of their father. DDD, AAA's eldest sister, testified that AAA fabricated the charges against their father to avoid being punished when he finds out that she was pregnant with her boyfriend's child. EEE, on the other hand, testified that she was at home practically 24 hours a day and she would have been aware if in fact their father raped AAA.

Ruling of the Trial Court

In its Decision[8] of 25 April 2003, the trial court found appellant guilty of all four counts of rape. The dispositive portion of the trial court's decision reads:

WHEREFORE, the court, after having overwhelmingly found the accused, MARCELINO RAMOS y BERNABE, GUILTY beyond reasonable doubt of having committed the offenses of two (2) counts of rape under Article 335 of the Revised Penal Code and two (2) other counts of rape under the circumstances prescribed in Article 335 of the Revised Penal Code, as amended by R.A. 7659 upon the person of his minor child, AAA, hereby sentences the above-named accused as follows:

- 1) In Criminal Cases Nos. MC98-311-H to MC98-312-H, he is hereby ordered to suffer the penalty of reclusion perpetua in each case;
- 2) In Criminal Cases Nos. MC98-313-H to MC98-314-H, he is hereby ordered to suffer the mandatory/extreme penalty of death in each case;
- 3) To pay the offended party, AAA, in Criminal Cases Nos. MC-98-311-H to MC-98-314-H the amount of Php75,000.00 as civil indemnity for each count of rape or a total of Php300,000.00; Php50,000.00 for each count of rape as moral damages or a total of Php200,000.00; and Php25,000.00 for each count of rape as exemplary damages or a total of Php100,000.00 in the grand total amount of Php600,000.00 and to pay the costs.

SO ORDERED.

On appeal, appellant questioned the sufficiency of the informations for failure to state with particularity the dates of the commission of the alleged rapes rendering the informations void. Further, appellant argued that the prosecution failed to prove his guilt beyond reasonable doubt and questioned the credibility of AAA.

Ruling of the Appellate Court

In its 15 May 2007 Decision, the Court of Appeals affirmed the trial court's decision but reduced the two death sentences to reclusion perpetua without eligibility for parole in view of the passage of Republic Act No. 9346.

Hence, this appeal.

The Issues

Appellant raises the following errors:[9]

THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING THE INFORMATIONS IN CRIMINAL CASES NOS. MC98-311-H, MC98-312-H, MC98-313-H AND MC98-314-H CHARGING THE ACCUSED OF THE CRIME OF RAPE INSUFFICIENT TO SUPPORT A JUDGMENT OF CONVICTION.

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONY OF PRIVATE COMPLAINANT AND NOT CONSIDERING THE DEFENSE INTERPOSED BY THE ACCUSED.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED OF FOUR (4) COUNTS OF RAPE DESPITE FAILURE OF PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The Ruling of the Court

An appeal in a criminal case opens the entire case for review such that the Court can correct errors unassigned in the appeal.[10]

In resolving rape cases, the Court is guided by three principles: (a) an accusation of rape can be made with facility; it is difficult for the complainant to prove but more difficult for the accused, though innocent, to disprove; (b) in view of the intrinsic nature of the crime of rape where only two persons are involved, the testimony of the complainant must be scrutinized with extreme caution; and (c) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[11]

The Court finds that both the trial court and appellate court erred in convicting appellant of statutory rape in Criminal Case No. MC98-311-H.

As provided for in the Revised Penal Code, sexual intercourse with a girl below 12 years old is statutory rape. The two elements of statutory rape are: (1) that the accused had carnal knowledge of a woman; and (2) that the woman is below 12 years of age.[12]

The age of the victim is an essential element of statutory rape; thus, it must be proved by clear and convincing evidence.[13]

In *People v. Pruna*, [14] the Court laid down the following guidelines in determining the age of the victim:

- The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party.
- In the absence of a certificate of live birth, similar authentic documents such as baptismal certificate and school records which show the date of birth of the victim would suffice to prove age.
- If the certificate of live birth or authentic document is shown to have been lost or destroyed or otherwise unavailable, the testimony, if clear and credible, of the victim's mother or a member of the family either by affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact age or date of birth of the offended party pursuant to Section 40, Rule 130 of the Rules on Evidence shall be sufficient under the following circumstances:
 - If the victim is alleged to be below 3 years of age and what is sought to be proved is that she is less than 7 years old;
 - If the victim is alleged to be below 7 years of age and what is sought to be proved is that she is less than 12 years old;
 - If the victim is alleged to be below 12 years of age and what is sought to be proved is that she is less than 18 years old.
- In the absence of a certificate of live birth, authentic document, or the testimony of the victim's mother or relatives concerning the victim's age, the complainant's testimony will suffice provided that it is expressly and clearly admitted by the accused.
- It is the prosecution that has the burden of proving the age of the offended party. The failure of the accused to object to the testimonial evidence regarding age shall not be taken against him.
- The trial court should always make a categorical finding as to the age of the victim.

Despite the trial court's conclusion that "AAA was born on 15 April 1981" we find that the records of the case do not support such finding.

The prosecution failed to present the birth certificate or any other document to prove the age of AAA. The only evidence presented was the bare testimony of AAA that she was 10 years old when she was first raped by her father.

Since the prosecution failed to prove the age of AAA at the time of the first rape, appellant cannot be convicted of statutory rape. However, appellant may still be convicted of rape under Article 335(1) of the Revised Penal Code in Criminal Case No. MC98-311-H. The gravamen of this crime is carnal knowledge of a woman by using force, violence, intimidation, or threat which was properly alleged in the information. In several cases, the Court ruled that the element of force or intimidation is not essential in cases of rape committed by a father against his own daughter, as the father's moral ascendancy or influence substitutes for violence and intimidation.[15] That ascendancy or influence necessarily flows from the father's parental authority, such that a father can control his daughter's will forcing her to follow his biddings.[16] Regarding the first rape, AAA unequivocally testified that

appellant touched her private part, then forced his private part into her private part causing her pain. Afterwards, appellant threatened to kill her if she would tell anyone about the incident.[17]

In Criminal Case Nos. MC98-312-H to MC98-314-H, the Court finds that the prosecution presented sufficient evidence to show that appellant raped AAA during the periods alleged in the informations to warrant conviction. This is especially so since AAA stated on the witness stand that appellant raped her two to three times a week after the commission of the first rape:

Q

-

How many times if you can recall that your father inserted his penis to your vagina? Except in 1991 when you were ten (10) years old?

A

-

Many times.

Q

-

Many times. Can you quantify that?

A

-

In one week it maybe two or three times.

Q

-

You mean twice or thrice a week your father inserted his penis into your vagina?

A

-

Yes.

Q

-

Where did these all happened?

A

-

In our house in Mandaluyong.

Q

-

Usually, what time of the day did your father insert his penis into your vagina?

A

-

If there is a chance.

Q

-

How old are you now?

A

-

I am 20 years old.

Q

-

Do you know when was the last time your father inserted his penis into your vagina?

A

-

Yes.

Q

-

When was the last time.

A

-

Middle of November 1996.

Q

-

Where did that happen?

A

-

Here in Mandaluyong.

Q

-

How did that happen?

A

-

"Hinalay po ako ng tatay ko."

Q

-

What you mean by hinal[a]y?

A

-

"Ginahasa po."

Q

-

How did that happen?

A

-

I was called by him at the room.

Q

-

Did you comply?

A

-

Yes, I did.

Q

-

Where was your father then when you entered the room?

A

-

He was also inside the house.

Q

-

You entered into the room?

A

-

Yes, I do.

Q

-

How about your father? Where was he at that time?

A

-

He entered into the room.

Q

-

How many persons inside the room at that time aside from you and your father?

A

-

My sisters are in the sala.

Q

-

When you were alone together with your father inside your room, what happened?

A

-

I was used by my father.

Q

-

When you said I was used by my father, what do you exactly mean?

A

-

He inserted his private part to my private part.

Q

-

So, as far as you can recollect, that started in 1991 and the last of which according to you middle of November 1996. So, how many times more or less if you can recollect between that period of 1991 and 1996 that your father raped you?

A

-

Many times.[18]

Thus, the Court finds that the prosecution was able to prove beyond reasonable doubt that appellant raped AAA repeatedly between the periods 1991 to 1996.

Appellant, however, claims that AAA merely concocted the charges against him and raises the following points in his brief:

- During the times AAA claimed she was raped, her sisters were at home. Considering the size of their home, it would be highly unlikely that the rapes would have taken place without AAA's sisters knowing about it.
- AAA's sisters testified that appellant never sexually molested them. Thus, it would seem incredible that AAA was the only one raped by their father.
- AAA had a boyfriend and it was possible that he was the father of her child. Since no paternity test was conducted, it would be unfair to conclude that appellant was the father of AAA's child.[19]

The Court finds that the points raised by appellant are but desperate attempts to obtain a reversal of the convictions and are of no merit.

The Court has in the past ruled that rape may be committed even when rapist and victim are not alone. In fact, rape was held to have been committed in the same room while the rapist's spouse was asleep, or in a small room where other family members also slept.[20] As AAA stated in her testimony, her father molested her during times when they were alone in the room. This explains why the other members of the family were not aware that appellant was sexually abusing AAA.

That appellant never sexually molested his other daughters and that AAA had a boyfriend are inconsequential facts that do not cast a doubt on AAA's claim that appellant raped her several times.

In sum, the prosecution had established by clear and convincing evidence that appellant had carnal knowledge of AAA, his minor daughter, on at least four occasions.

In Criminal Case Nos. MC98-311-H and 312-H, appellant is guilty of rape under Article 335(1) of the Revised Penal Code with the aggravating circumstance that the offender is the parent of the victim.

In Criminal Case Nos. MC98-313-H and 314-H, appellant is guilty of rape qualified by the circumstances that the victim is under 18 years of age and the offender is the parent of the victim.

As the qualifying circumstances of minority and relationship were alleged and proved, the death penalty imposed by the trial court is proper. In view, however, of the subsequent enactment on 24 June 2006 of Republic Act No. 9346, An Act Prohibiting the Imposition of Death Penalty in the Philippines, the appellate court correctly reduced the penalty to reclusion perpetua without eligibility for parole.

We sustain the awards of P75,000 and P25,000 as civil indemnity and exemplary damages, respectively, for each count of rape but increase the award of moral damages from P50,000 to P75,000 for each count in line with prevailing jurisprudence.[21]

WHEREFORE, the Decisions of the Regional Trial Court, Branch 211, Mandaluyong City in Criminal Case Nos. MC98-311-H to MC98-314-H and the Court of Appeals in CA-G.R. CR-H.C. No. 02403 are **AFFIRMED WITH MODIFICATION**. Appellant Marcelino Ramos is found guilty of two counts of rape under Article 335(1) of the Revised Penal Code and two counts of rape under Article 335 of the Revised Penal Code in relation to Republic

Act Nos. 7659 and 9346. Appellant is sentenced to suffer the penalty of reclusion perpetua without eligibility for parole for each count of rape and to pay the victim, AAA, P300,000 as civil indemnity, P300,000 as moral damages and P100,000 as exemplary damages.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Penned by Justice Conrado M. Vasquez, Jr. and concurred in by Justices Jose C. Mendoza and Celia C. Librea-Leagogo.

[2] Records, Vol. I, p. 1.

[3] Records, Vol. II, p. 24.

[4] Records, Vol. III, p. 42.

[5] Records, Vol. IV, p. 52.

[6] Id. at 90.

[7] Id. at 245-254.

[8] CA rollo, pp. 22-39.

[9] CA rollo, p. 69.

[10] Manaban v. Court of Appeals, G.R. No. 150723, 11 July 2006, 494 SCRA 503, 516.

[11] People v. Marahay, 444 Phil. 136, 146 (2003).

[12] People v. Arango, G.R. No. 168442, 30 August 2006, 500 SCRA 259, 280-281.

[13] People v. Vargas, G.R. No. 116513, 26 June 1996, 257 SCRA 603, 611.

[14] 439 Phil. 440, 470-471 (2002).

[15] People v. Buban, G.R. No. 166895, 24 January 2007, 512 SCRA 500.

[16] People v. Pioquinto, G.R. No. 168326, 11 April 2007, 520 SCRA 712.

[17] Records, Vol. IV, pp. 270-275.

[18] TSN, 15 August 2001, pp. 6-8.

[19] CA rollo, pp. 67-94.

[20] People v. Manuel, G.R. Nos. 107732-33, 19 September 1994, 236 SCRA 545, 554.

[21] People v. Bidoc, G.R. No. 169430, 31 October 2006, 506 SCRA 481.

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.