

## THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. AKSENIO DE LA CRUZ, DEFENDANT AND APPELLANT.

*G. R. No. 39882. February 20, 1934*

Ponente: BUTTE, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-39882/>

---

### BUTTE, J.:

This is an appeal from a judgment of the Court of First Instance of Pampanga convicting the defendant-appellant of the crime of consummated rape upon the following information:

"Que en o hacia el 2 de febrero de 1933, en el Municipio de Arayat, Provincia de Pampanga, Islas Filipinas, el referido acusado, Arsenio de la Cruz, por medio de engano, fuerza, amenaza e intimidacion, voluntaria, ilegal y criminalmente, yacio con Filomena Mario contra su voluntad. Hecho cometido contra la ley y con las circunstancias agravantes de nocturnidad, despoblado y premeditadon."

The appellant makes the following assignments of error:

"1, The lower court erred in convicting the accused of the alleged rape committed against Filomena Mano on the complaint filed by her aunt, Romana Mafio, when her father is yet living and within the Philippine Islands.

"2. The lower court erred in not acquitting the accused." The testimony of Romana Mafio (pp. 38, 39, t. s. n.) recites that Filomena Mario is the niece of Romana Mano and is living with, and supported by the latter; that the father of Filomena Mario is working in the adjacent Province of Tarlac. The Solicitor-General contends that Romana Mafio is "to all intents and purposes the legal guardian of said offended party" and he argues that she is competent to sign the information in this case.

Article 344 of the Revised Penal Code, paragraph 3, is as follows:

"Tampoco puede procederse por causa de estupro, rapto, violacion o abusos deshonestos, sino en virtud de denuncia de la parte agraviada, o de sus padres, o abuelos o tutor, ni despues de haberse otorgado al ofensor, perdon expreso por dichas partes, segtin los casos." Without passing at this time on the question whether the tutor (legal guardian) may file a complaint in the temporary absence of the parents or grandparents of the offended party, it suffices to say that we cannot accept the view of the Government that an aunt who has the temporary custody of a minor in the absence of her father occupies the position of a tutor (legal guardian). The word "tutor" (guardian) appearing in article 344, supra, must be given the same meaning as in section 551 of the Code of Civil Procedure, that is to say, a guardian legally appointed in accordance with the provisions of Chapter XXVII of the Code of Civil Procedure.

The argument of the Solicitor-General that delay and inconvenience and possibly a complete defeat of justice might arise if the father, as in the present instance, is absent from the province, addresses itself rather to the Legislature which has it in its power to enlarge the list of persons who might file complaints in such cases as this.

As the court lacks jurisdiction to hear and determine the information, the judgment below must be reversed with costs de oficio.

Street, Abad Santos, Imperial, and Diaz, JJ., concur.

## 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.