

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELPIDIO CABADING, ACCUSED-APPELLANT.

G.R. No. 74352. June 06, 1989

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-74352/>

PARAS, J.:

This is an appeal from the decision of the Regional Trial Court Branch XXXIII of Bauang, La Union, finding the appellant Elpidio Cabading guilty beyond reasonable doubt of Rape, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered declaring the accused guilty beyond reasonable doubt of the crime of simple rape and sentencing him to suffer the penalty of RECLUSION PERPETUA with all the accessory penalties provided by Article 41 of the Revised Penal Code; ordering the accused to indemnify the victim the sum of Thirty Thousand Pesos (P30,000.00), and to pay the costs.

SO ORDERED." (p. 44, Rollo)

As found by the trial court in its assailed decision, the complainant's version of the rape incident is as follows:

On August 8, 1978, the complainant Benita Huliganga together with her brother Valerio and her sister Lily Grace Banayat, were staying in the house of their grandfather Alejo Gacad at Brgy. Naguilian, La Union. Her husband, Carlos Huliganga, was away.

At around ten o'clock (10:00) that evening, while the complainant was breastfeeding her child, she heard someone push the door of the house which was tied with a thin wire, thinking that her husband had arrived, she did not move nor utter any sound. She realized that the intruder was not her husband but the appellant when the latter raised her mosquito net. She recognized the appellant, a neighbor, with the aid of a kerosene lamp that was lighted in the room.

The appellant immediately put his palm on her mouth and went on top of her. Thereafter, he twined his feet around hers, raised her dress and put down her panty. Then, he held his penis and inserted it into her vagina.

The complainant could not extricate herself from the appellant because the latter was strong and heavy; neither could she make an outcry as his palm was covering her mouth. The appellant, however, failed to ejaculate inside her private part. He stood up when she was able to move her head. Before he left, he threatened to kill her or her child and husband: "if somebody will know about this." (pp. 7-14, Tsn., July 2, 1979)

On the same night, the complainant and her companions transferred to the house of their other grandfather, Faustino Gacad. The next morning, they proceeded to their parent's house near the foot of the mountain where she related the incident to them. Thereafter, the complainant was accompanied by her mother and they reported the matter to the police.

The complainant was examined by Dr. Luis Duldulao who issued a medical certificate (Exh. "B") with the following findings: no external signs of spermatozoa and physical injuries on the patient except for a minute

abrasion on the face, located on the right jaw. According to Dr. Fidel Agcaoile, a medical expert, the abrasion to the right jaw could possibly have been caused by the placing of a hand on the mouth of the patient. (p. 40, Rollo)

On cross-examination, the complainant declared further that when the appellant covered her mouth with his left palm and went on top of her, he was holding a knife with his right hand, and he threatened to stab her or her child "If she talks." (p. 43, Tsn. July 2, 1979) When her husband arrived about dawn the next day, she told him about the outrage on her honor and he accompanied her to file the complaint (p. 26, Tsn. July 2, 1979)

The appellant put up alibi as his defense. He claimed that he was at his house (about twenty meters away from the complainant's house) with his wife and children, ages one and two, at the time when the incident took place. (p. 40, Rollo)

Finding the complainant's version more credible, the trial court convicted the appellant as charged.

Hence, the present appeal.

We find merit in this appeal.

"The Court has stressed that in view of the severity of the penalties for the offense of rape, justified by the 'traumatic consequences for the unfortunate victim and grievous injury to the peace and good order of the community', there is need for extreme care on the part of the judiciary to avoid an injustice done to an accused. For it is equally true that this is an offense to which as is often the case, only two people can testify, thus, requiring the most conscientious effort on the part of the arbiter to weigh and appraise the conflicting testimonies. If a reasonable doubt exists, the verdict must be one of acquittal." It must be borne in mind that it is an accusation easy to be made, hard to be proved, but harder to be defended by the accused, though innocent. The evidence for conviction must be clear and convincing to overcome the constitutional presumption of innocence." (People v. Estacio, 537 SCRA 111).

In the case at bar, numerous circumstances glaringly detract from the credibility of the testimony and version of the complainant resulting in the failure of her case to meet the test of moral certainty and guilt of the accused beyond reasonable doubt.

First, the complainant did not make any manifest resistance expected of a woman defending her honor and chastity. She testified that her only attempts at resistance were mere attempts to rise which We believe are not the manifest resistance required and expected of a woman defending her honor and chastity. When she recognized the appellant at the time he raised her mosquito net, there is no evidence on record that she made any outcry for succor. There is likewise no evidence on record that she put up a struggle when the appellant "went on top of her", "twined his legs into hers" "raised her dress" and put down her panty." (p. 12, Tsn. July 2, 1979) On direct examination, the complainant admitted that while the alleged rape was being committed, she did not do anything. She testified, thus:

"FISCAL QUERO:

CONTINUING:

Q - - What transpired next when he was lying on top of you and twined his legs to your legs?

A - - He raised my dress and put down my panty.

Q - - And what more transpired?

A - - He held his penis and inserted it into my private part, Sir.

Q - - What about you, what did you do when he inserted his penis into your private part?

A - - I cannot move your Honor, because he held me tightly.

Q - - Why, did you not shout?

A - - How could I shout when he placed his palm on my mouth?

Q - - And how long was Elpidio Cabading on top of you?

A - - For a few moments.

Q - - Why, what happened?

A - - A few moments because I was able to move my head.

Q - - What about when you moved your head?

A - - That is the time when I was able to move my head that is the time he stood up. (pp. 12-13, Tsn, July 2, 1979)

The complainant's failure to do anything while allegedly being raped renders doubtful her charge of rape. (People vs. Estacio, p. 46 SUPRA)

Second, the complainant declared on cross-examination that the appellant "was holding a knife with his right hand" (Ibid p. 43) We find this circumstance a mere afterthought as it was not mentioned by the complainant on direct examination. The complainant could not have forgotten such a vital circumstance if it were really true. Neither did she provide details about the knife which was not presented in evidence during the trial. Besides with one hand allegedly holding a knife and the other hand gagging her mouth, she could not have been held tightly by the appellant to prevent any determined struggle or resistance on her part.

At any rate, the incredibility of the manner by which the complainant was allegedly raped by the appellant was previously ruled upon by this Court in People vs. Apat (114 SCRA 620), to wit:

"The manner by which the appellant raped Gregoria, as narrated by her, defies the imagination. It may hardly be envisioned how a man can successfully consummate the sexual act on an unwilling woman with his left hand placed over her mouth (supposedly to prevent her from shouting for help) and with his right hand holding a hunting knife pointed at the woman's forehead and while so positioned, was able to manage to remove the panty of the woman, spread her legs, unbutton his short pants, and perform the sexual intercourse."

Finally, We are inclined to believe that the ulterior motive of the complainant in filing the rape case against the appellant is to avoid retribution by her outraged husband who found out about her sexual union with the appellant during his absence from their conjugal abode (pp. 24-26, Tsn., July 2, 1979).

The court finds the trial court's appreciation and assessment of the evidence on record upon which it based its verdict of guilt, faulty and incorrect.

Accordingly, the decision of the trial court is hereby REVERSED and SET ASIDE and the accused is hereby ACQUITTED of the crime charged.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, and Regalado, JJ., concur.
Sarmiento, J., on leave.

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.