

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTHONY BELGAR Y MAYOR, DEFENDANT-APPELLANT.

G.R. No. 92155. March 11, 1991

Ponente: GANCAYCO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-92155/>

GANCAYCO, J.:

This is a case of rape of a 12-year old girl, a mental retardate with the mentality of a 6-year old. The assailant is a young man who is a habitual drug addict.

At around 12:00 o'clock noon on May 11, 1987, Lorelyn Ragub, a 12-year old retardate, went to the upper floor of the house where she was residing to watch television. She lived in the lower floor with her mother, brothers and a sister, while Anthony Belgar stayed in the upper floor with his aunt.

While Lorelyn was watching television, Anthony approached her, kissed her and held her breast. Anthony covered her mouth and placed himself on top of her. He took off her black shorts and his pants, and thus Anthony was able to insert his sexual organ inside the vagina of Lorelyn. Lorelyn felt pain on her back and body.

Meanwhile, Edu, a nephew of Anthony, four years of age, approached the mother of Lorelyn and informed her "Lorelyn is pinapatungan by Kuya Boy." Lorelyn's mother proceeded upstairs and she saw Anthony coming down the stairs ahead of Lorelyn.

Lorelyn told her mother what happened. On May 14, 1987, she was examined by the Medico-Legal Officer of the Western Police District who issued a medical certificate with the following findings:

'x x x (3) Hymen is relatively thin, circular in shape and with a deep old healed laceration at 6:00 o'clock position with rounding of edges; (4) Introitus vagina admits two (2) examining fingers with moderate resistance; (5) Vagina wall is firm and with less prominent rugosities, while vault is dry; (6) Last menstrual period April 28, 1987, for 2 days

'The above finding is consistent with a girl who is no longer a virgin.'[1]

In due course, a complaint charging Anthony Belgar of the crime of rape was filed by Lorelyn assisted by her mother Lolita V. Ragub, which reads as follows:

"That on or about May 11, 1987, in the City of Manila, Philippines, the said accused did then and there wilfully, unlawfully and feloniously, by means of force and intimidation, to wit: by then and there forcing to lay down one LORELYN RAGUB y VALLECER, a minor, 12 years of age and a retardate, removing her panty and inserting his penis into her private part and succeeded in having carnal knowledge of undersigned complainant, against her will and consent.

Contrary to law."[2]

After arraignment, wherein the accused entered a plea of not guilty and the trial on the merits, a decision was rendered by the trial court on July 19, 1988 convicting the accused of the offense charged in this manner:

“FOR ALL THE FOREGOING CONSIDERATIONS, this Court finds the accused guilty of the crime charged and hereby sentences him to suffer the penalty of reclusion perpetua, with the accessory penalties provided by law, and to recognize and support any offspring which may be conceived and born arising from the coitus had between him and the complaining witness. The accused is likewise ordered to indemnify the offended party moral damages in the sum of ten thousand pesos, aside from paying the costs.

Following the course taken in *People v. Manlapaz* (88 SCRA 704), as this case appears analogous thereto except that here the accused was apparently ignorant of the mental condition of the complainant, and therefore this case, with more reason, deserves executive clemency insofar as the penalty imposed is concerned, let a copy of this decision be furnished the Office of the President of the Philippines, through the Honorable Secretary of Justice, for such action as may be considered appropriate to cushion the unusually harsh penalty herein imposed, per Art. 5, Rev. Penal Code.

SO ORDERED.”[3]

Consequently, the accused interposed an appeal therefrom to this Court, alleging the following errors:

“I

THE TRIAL COURT ERRED IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONY OF THE COMPLAINING WITNESS CLAIMING THAT SHE WAS RAPED BY THE ACCUSED-APPELLANT DESPITE THE FACT THAT THE ALLEGED RAPE DID NOT HAPPEN AS NARRATED BY THE COMPLAINANT HERSELF BECAUSE SHE WAS MERELY KISSED BY THE ACCUSED-APPELLANT.

II

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF RAPE DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.”[4]

The main thrust of the appeal is that complaining witness Lorelyn herself did not testify that she was raped by the appellant but that she was merely kissed and fingered.[5] Even the information given by the 4-year boy Edu was, according to appellant, simply that appellant was kissing the complainant.[6]

Moreover, appellant argues that the assertion of Lorelyn that the appellant inserted his penis inside her vagina was elicited through a series of leading questions and that the trial court has serious doubt as to his culpability.[7] Further, he avers that the testimony of the 4-year old boy Edu cannot be relied upon and that complainant herself cannot coherently articulate what happened.[8] Attention is also invited to the medical findings of deep laceration in the vagina of Lorelyn showing that she may have had sexual intercourse long before the alleged date of the rape and which belies the allegation of complainant that she was raped on May 11, 1987.

In his defense, appellant asserts that he was at their house on the alleged date of the incident; that he arrived in the house after coming from a marijuana smoking session; that he slept and woke up at seven o'clock in the evening; and that he went downstairs soon thereafter. He also asserts that he was called by the father of the complainant from a warehouse, and upon arriving thereat, he was mauled. This is the alibi put forward by the appellant.

The Court is not persuaded. An examination of the testimony of the complainant shows that she testified in this manner:

“DIRECT EXAMINATION OF LORELYN RAGUB:

“Q:

According to this question ‘Bakit ka pinagsamantalahan ...?, do you understand that?

A:

Yes, sir.

Q:

What does that mean?

A:

He covered my mouth, sir.

Q:

What else?

A:

He took off my clothes, sir.

Q:

And then what happened?

A:

No more, sir.

COURT:

Q:

What were the clothes that were taken off?

WITNESS:

A:

Shorts, colored black, sir.

ATTY. SUAREZ:

Q:

After he removed your shorts with dark color, what happened next?

WITNESS:

A:

He took off his pants, sir.

Q:

What else happened after that?

A:

I do not know anymore, sir.

Q:

You said that he was holding your mouth so you will not shout, why did he do that?

A:

So that I will not be able to watch the TV in their place again, sir.

Q:

After he went on top of you, what happened next?

A:

We were already finished then, sir.

Q:

What is that 'ganoon' that you referred to?

A:

We are finished kissing, sir.

Q:

You mean to say that all what he did was kissing?

A:

There is still more, sir.

Q:

What else?

A:

He put himself on top of me, kissed me and put his 'titi' inside my vagina, sir.

ATTY. SUAREZ:

Q:

You said that he inserted his penis on you, what part of your body is that?

WITNESS:

A:

My vagina, sir.

Q:

So when he did that to you, when he inserted his penis on your vagina, what did you do?

A:

It was painful, sir.

Q:

What was painful?

A:

My back and my body, sir.

Q:

How long did he insert his penis in your vagina?

A:

I do not know anymore, sir.”[9]

The foregoing testimony of complainant shows without doubt that appellant actually raped her on that fateful day on May 11, 1987, whereby after undressing her, he took off his trousers, held her mouth and went on top of her by kissing her. Thereafter, he inserted his penis inside her vagina. Complainant could not remember how long the sexual intercourse took place but she could remember the pain on her back and body.

It is true that the series of questions propounded by the prosecution to Lorelyn are leading. However, the defense counsel did not object thereto. Moreover, leading questions to a 12-year old retardate is allowed by Section 10, Rule 132 of the Revised Rules on Evidence which provides:

“SEC. 10. - Leading and misleading questions. - A question which suggests to the witness the answer which

the examining party desires is a leading question. It is not allowed, except:

(a)

On cross examination;

(b)

On preliminary matters;

(c)

When there is difficulty in getting direct and intelligible answers from a witness who is ignorant, or a child of tender years, or is of feeble mind, or a deaf-mute;

(d)

Of an unwilling or hostile witness; or

(e)

Of a witness who is an adverse party or an officer, director, or managing agent of a public or private corporation or of a partnership or association which is an adverse party.

A misleading question is one which assumes as true a fact not yet testified to by the witness, or contrary to that which he has previously stated. It is not allowed.” (Emphasis supplied.)

The complainant is a child of feeble mind. Although she was 12 years old then, her mentality was that of a 6-year and 4-months-old youngster, as certified to and affirmed in open court by a doctor from the National Bureau of Investigation (NBI) who conducted a neuro-psychiatric evaluation of complainant on May 25, 1987.[10]

Nevertheless, immediately after her shocking experience, the complainant related the incident to her mother. She confirmed the fact that she was raped by the appellant.[11]

Appellant correctly observed that the records show that what was found in the examination of Lorelyn’s vagina is a deep, old, healed laceration which means that she was not a virgin anymore on May 11, 1987. It does not necessarily show that she was not raped on that day. As she was no longer a virgin then, there could not be any fresh laceration if she was raped on May 11, 1987. The trial court noted from the case history in the NBI neuro-psychiatric evaluation report, that appellant already had previous carnal knowledge of complainant before this date.[12] This was narrated by private complainant to the NBI physician. Thus, the trial court made the following observations:

“From the above-recited substance of the evidence of both the prosecution and the defense, the following facts appear to have been established: (a) that the rape imputed against the accused and committed on 11 May, 1987, could NOT have been the cause of complainant’s defloration resulting to a ‘deep old healed laceration at 6 o’clock position’ on her hymen; in fact, the Psychiatrist’s Report stated: ‘That this (kissing, breast caressing, placing himself - referring to ‘Boy’ - on top of her, and his penis placed on her) happened at the suspect’s

house, more than once, daytime...' (Exh. C-1); xxx".[13]

Consequently, it appears that the old laceration in the vagina of complainant was because of the prior sexual assaults by the appellant.

The assertion of the complainant that she was raped by the appellant is corroborated by the young boy Edu who saw appellant on top of the complainant. He said that he was kissing and "ginagahasa" (raping) her. Such candor of an innocent boy should be given much weight contrary to the protestation of the appellant.

Article 335 of the Revised Penal Code provides as follows:

"ART. 335. When and how rape is committed - Penalties. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age, even though neither of the circumstances mentioned in two next preceding paragraphs shall be present;

The crime of rape shall be punished by reclusion perpetua.

Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be likewise death.

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death."

From the foregoing provision of law there four (4) modes of committing rape, namely:

1. by having carnal knowledge of a woman by using force or intimidation;
2. by having carnal knowledge of a woman deprived of reason;
3. by having carnal knowledge of a woman who is unconscious; and
4. by having carnal knowledge of a woman who is under 12 years of age.

In this case, the appellant was charged with rape through force and intimidation of the complainant who is a 12-year-old minor, and a retardate. There is no doubt that force and intimidation were employed by the appellant when he laid with the complainant. And although the complainant was already 12 years old at the time, she was undeniably a retardate with the mentality of a 6-year old child, so that she also falls under the fourth category, for being under 12 years of age.

Moreover, in *People v. Manlapaz*,^[14] this Court held that the allegation in the information that accused had sexual intercourse with a mental retardate implies that the victim was not in full possession of her normal reasoning faculty. So although not spelled out in the complaint, appellant is also thereby charged under the second category aforestated of having carnal knowledge of the complainant who was deprived of reason.

The record shows that the appellant is the son of a broken home who is living with his aunt. He is admittedly a drug addict at the time and that he even drank red horse thereafter on that occasion. He wants to make it appear he

did not know nor remember what happened then. The Court is not impressed. His methodical acts in making advances and finally having sexual intercourse with Lorelyn are mute evidence that he knew what he was doing.

In assessing the criminal liability of appellant, the trial court observed that he was apparently ignorant of the mental condition of the complainant. The Court disagrees. The appellant and complainant were living in the same house for sometime. Certainly appellant cannot feign ignorance that the complainant was a mental retardate. Despite his awareness of her pitiful mental state, appellant did not hesitate to take advantage of her by raping her not only on May 11, 1987 but on several occasions before.

While it is true that the appellant deserves compassion for being the abandoned child of his estranged parents, nevertheless, his drug addiction should not be an excuse for him to commit such a serious offense as rape. Under Section 17 of the Dangerous Drugs Act of 1972, as amended by Batas Pambansa Blg. 179, “when a crime is committed by an offender who is under the influence of dangerous drugs, such state shall be considered as a qualifying aggravating circumstance in the definition of a crime and the application of the penalty provided for in the Revised Penal Code.” This should serve as a sufficient deterrent if not a warning to those who are inclined to if not actually habitually addicted to drugs. Their addiction will be no excuse but will aggravate any offense they commit. They would deserve no mercy under the law. This observation holds true especially for the drug pushers. They are the bane of society.

WHEREFORE, the judgment appealed from is **AFFIRMED** with the only modification that the indemnity for the offended party should be increased to P40,000.00, with costs against the appellant.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Exhibit A.

[2] Page 17, Rollo.

[3] Page 67, Rollo.

[4] Page 1, Appellant’s Brief, page 75, Rollo.

[5] Referring to TSN, Sept. 29, 1987, page 9.

[6] Referring to TSN, Sept. 29, 1987, page 12.

[7] Referring to TSN, Sept. 27, 1987, page 23.

[8] Referring to TSN, Sept. 29, 1987, page 6.

[9] TSN, September 29, 1987 pages 13 to 14; emphasis supplied.

[10] Exhibit C.

[11] Referring to TSN, Sept. 8, 1987, page 5.

[12] Exhibit C.

[13] Page 23, Rollo.

[14] *People vs. Manlapaz*, 88 SCRA 704 (1979).

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.