

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANILO PACISTOL Y LIM, DEFENDANT-APPELLANT.

G.R. Nos. 119074-75. January 22, 1998

Ponente: VITUG, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-119074-75/>

VITUG, J.:

In two separate complaints, both dated 27 July 1993, Danilo Pacistol y Lim, alias "Danny Pilay," was accused of rape by 10-year old Marilou H. Montalbo, assisted by her grandfather, Gaudencio M. Hinay, one complaint being docketed as Criminal Case No. 2265, and the other as Criminal Case No. 2266. The information in Criminal Case No. 2265, read -

"That on or about the 2nd day of July 1993 in the Municipality of San Mateo, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with Marilou Montalbo y Hinay, a minor ten (10) years of age, without her consent and against her will.

"CONTRARY TO LAW."[1]

The information in Criminal Case No. 2266 contained basically the same allegations as above except for the date of the commission, i.e., on 06 July 1993, of the second offense.[2]

The accused pleaded, "not guilty" to the two felonies. The defense waived the pre-trial conference.

The prosecution presented its evidence.

Marilou H. Montalbo, a 10-year old, grade two pupil at the Banaba Elementary School, and her 12-year old brother, Jonathan, lived with their grandfather, Gaudencio Hinay, and his second wife, Maria Hinay, in Magnolia Street, Armel Subdivision, Banaba, San Mateo, Rizal, just across the compound of the Philippine Benevolent Missionaries Association ("PBMA"). A typical day in the family would see Gaudencio leaving the house in the early morning for work, Maria remaining at home, and Marilou attending her 12:00 noon to 5:00 p.m. school classes. It was their daily routine until misfortune befell the family.

In the morning of 02 July 1993, a Friday, Maria went shopping at the Marikina market. She left Marilou at home playing with Carol, a classmate and a neighbor. After Carol had left and while Marilou was alone sitting on a chair, "Danny," the accused, came by, approached Marilou and offered her a piece of candy. Danny himself unwrapped the item, placed it in her mouth and told her to take it. A short while later, he dragged Marilou to a grassy place nearby. He pushed her down, took off his pants and briefs, and removed Marilou's T-shirt, bloomers and panty. He succeeded in forcing himself upon Marilou. His lust satisfied, he dressed up and left. When she was back home, Maria noticed that Marilou was pale. Soaked in a basin were Marilou's bloodstained bloomers and panty. When Maria asked about the bloodstains, Marilou simply answered that she fell (nadapa).[3]

A few days passed. Maria saw the accused following Marilou as she walked to school. Maria, however, did not give much thought to it. She had no inkling that on that day, 06 July 1993, the second assault on Marilou's virtue

would take place. Like before, Marilou was dragged to a grassy area and subjected to the same sexual ordeal by the accused. When it was over, the accused left but not before threatening his young victim with death if she were to tell on him. Feeling dejected, Marilou dressed up and walked away.

Marilou kept to herself what she had been through until she, on the evening of 18 July 1993, at the insistence of her grandparents who suspected that something was wrong, revealed to them the two incidents against her honor. Gaudencio could not sleep that night. He kept on thinking about what the family should do. He was afraid that the family would have its share of ridicule, at least of embarrassment, from the community. He also feared that the police might not take appropriate action. Ultimately, on the advice of Marilou's teacher, a certain Mrs. Adeva, to whom the incident was related in connection with the grandparents' request to have the child transferred to another school, the family decided to bring the culprit to justice. Gaudencio, Maria and Marilou first went to the Gonzales Hospital in Concepcion, Marikina, which referred them to the Rodriguez Hospital, a government hospital, and then later to Camp Crame, Quezon City, where Marilou was finally examined.

In Medico-Legal Report No. N-1126-93, dated 26 July 1993, prepared by Dr. Jesusa Nieves who conducted the medical examination, the following findings were disclosed:

"GENERAL AND EXTRAGENITAL:

"Fairly developed, fairly nourished and coherent female child. Breasts are undeveloped. Abdomen is flat and soft.

"GENITAL:

"There is absence of pubic hair. Labia majora are full, convex and gaping with the pinkish brown labia minora presenting in between. On separating the same are disclosed a swollen and markedly congested urethra and a fleshy-type and markedly congested hymen with shallow healed lacerations at 3 and 6 o'clock. External vaginal orifice does not admit the tip of the examining index finger.

"CONCLUSION:

"Subject is in non-virgin state physically.

"There are no external signs of recent application of any form of violence."[4]

In the afternoon of 25 July 1993, two policemen invited Gaudencio to the police station where he identified the accused. Gaudencio was asked to fetch his granddaughter. At the police station, Marilou, trembling, pointed her finger at Danilo when asked who had raped her. Still later, ten persons were made to line up. Pat. Alberto asked Marilou the second time who had raped her. Again, she pointed at the accused.

According to SPO2 Richard Salvador, Chief of the Intelligence and Investigation Section of the San Mateo Police, at around five o'clock in the afternoon of 25 July 1993, he was with an informant in Barangay Banaba, San Mateo, Rizal, conducting a surveillance operation in a bid to apprehend "suspected rapist Danny Pilay." Acting on an information that Danny had just alighted from a tricycle and that he had gone straight to his house, SPO2 Salvador proceeded to the suspect's residence. SPO2 Salvador informed Danny that he was named a suspect in a rape case. Invited to the police station, Danny went with SPO2 Salvador voluntarily. At the police station, Danny was referred to the investigator on duty, SPO2 Manuel Alberto. SPO2 Salvador left the station but briefly returned to witness a police line-up in which the victim singled out Danny as the person who had raped her. SPO2 Salvador executed a statement on the arrest and identification of the accused.

On 29 July 1993, Gaudencio was at home when David Nuñez, a municipal councilor, arrived driving a car. Vic Sanchez, Gaudencio's neighbor, accompanied Councilor Nuñez. The latter told Gaudencio that he was authorized by the accused's parents to settle the case. Gaudencio refused the offer of compromise.

At around three o'clock in the afternoon of 01 August 1993, a taxicab and a jeep pulled over near Gaudencio's house. On board the taxicab were Elvira P. Telmo, sister of the accused, and her husband. Alighting from the other vehicle was Sgt. Garcia. The group must have first dropped by the house of Vic Sanchez because the latter was with them when they called on the Hinays to try to persuade Gaudencio to "settle" the case.

Shortly after the filing of the case, the Hinay spouses, fearing for their safety, relocated their residence to the PBMA Chapter compound. According to Maria, the family feared Ronnie, a soldier and Danilo's brother-in-law, who frequently came visiting. On 27 July 1993, Marilou was transferred to the care of Create Responsive Infants By Sharing ("CRIBS").

The defense interposed denial and alibi.

Thirty-year old Danilo Pacistol y Lim, an electronic technician residing at Lot 3-A, Atis St., Roxas Subdivision, Banaba, San Mateo, Rizal, claimed to be a God-fearing and well-respected resident of the place. On 02 July 1993, Danilo was in the house of his brother-in-law, Nelson Surayo, in Marikina. He had been there with his wife and son since the afternoon before helping in the food preparation for the death anniversary of his father-in-law. On 06 July 1993, he was working near Sta. Lucia in Cainta in the house of the daughter of a certain Mr. Cruz. He had been working there since the first week of June until 22 July 1993. He would leave his house at around 6:00 or 6:30 in the morning and come home at past 6:00 in the afternoon.

Danilo had gone to the house of the victim once or twice before. He knew her and her grandfather who used to be a fellow employee working for the same company. He surmised having been accused the rapist because of a grudge the grandparents of the victim had against him. Some of his "gangmates," notably Bimbong Obregon and the Cabaya brothers, stabbed and mauled Eddie Nicol, who, like Gaudencio Hinay, was a member of the "PBMA."

In the afternoon of 25 July 1993, between 5:00 and 6:00 o'clock, Danilo was apprehended by SPO2 Salvador. He was accompanied at the police station by a friend, Basilio Garcia. When Marilou's grandfather arrived, he pointed at him and said, "Iyan nga, iyan nga." [5] After the grandfather had left to fetch the complainant, Danilo was advised that he was being charged with rape. No lawyer was with him at the time. Arriving with the girl about thirty minutes later, the grandfather, pointing at Danilo, yelled, "Iyan ba, iyan ba ang gumahasa sa iyo?" [6] The girl did not answer. The grandfather repeated the question two more times but the girl remained silent. Momentarily, the two went outside the room. When they returned, the girl was asked the same question. This time, she nodded her head slowly. The investigator started asking the girl some questions. When asked two or three times whether Danilo was her rapist, the girl did not answer but when her grandfather held her by the shoulders, she, finally, "nodded her head." [7]

Ramon Balonias, who was at the time a trustee-detainee at the police station, became a "cellmate" of Danilo. According to Balonias, he was lined up with nine other persons during the victim's identification of Danilo. When the girl was unable to identify the alleged rapist, her grandfather forced her to point to Danilo as the culprit.

Nelson Surayo, brother-in-law of Danilo, supported the latter's alibi. A resident of Exequiel, Concepcion, Marikina, Metro Manila, Surayo affirmed that it would take about forty-five minutes to reach appellant's residence in Banaba, San Mateo, from his own residence considering that one still had to take a tricycle after alighting from a passenger jeepney. On 01 July 1993, he went to see Danilo to remind him of the death anniversary of Surayo's father. Danilo and his wife promised to attend the affair. In the afternoon of 01 July 1993, the couple arrived in Surayo's house where they stayed until 5:00 o'clock in the afternoon of 02 July 1993.

Leticia Cruz Domingo of 109 Dragon St., Midtown Subdivision, Phase 2, Marikina, swore that on 02 July 1993,

as well as on 06 July 1993, Danilo was in her residence working. She was certain about it because, although she resided in Cubao, she would, however, go to her Marikina house every afternoon to personally hand over the P200 daily pay of Danilo.

Ronnie Telmo, a retiree from military service and married to Danilo's sister, admitted having gone to the residence of Gaudencio Hinay to settle the case. Although he did not believe that his brother-in-law could have committed the crime, he, nevertheless, wanted to help in settling the case. Unfortunately, however, his efforts failed.

The trial court was not persuaded by the defense put up by the accused and, on the basis of the evidence presented to it by the prosecution, held him guilty of the crime charged. It found it "amusing" that the defense still had doubted the victim's identification of Danilo as the perpetrator of the crime considering that the complainant "had positively identified the accused during her direct and cross examinations by both counsel for the prosecution and the defense, x x x, not just once, x x x, but several times x x x." [8]

The Court concluded:

"WHEREFORE, judgment is hereby rendered by this Court finding accused DANILO PACISTOL Y LIM alias DANNY PILAY, guilty beyond reasonable doubt of the crime of rape in both cases and is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua in each case and to pay the amount of P60,000.00 in each case as indemnity." [9]

In this appeal, appellant raised the following assignment of errors, to wit:

"I. The trial court seriously erred in admitting and in heavily relying on evidence of accused's alleged 'Identification' by the private complainant notwithstanding the fact that said evidence was obtained after the illegal arrest of the accused and during a police line-up where the accused was not informed of his right to counsel or to be provided the assistance of counsel.

"II. The trial court grossly erred in finding against the accused on the basis of evidently tutored and concocted statements of the private complainant and witnesses for the prosecution.

"III. The trial court gravely erred in convicting the accused without giving due weight to the defense of the accused.

"IV. The trial court seriously (erred) in finding the accused guilty despite the absence of definitive finding that it was accused who raped the private complainant and that the laceration found on her vagina was caused by a male sexual organ." [10]

The Court acknowledges that a rape charge can be made with facility; that rape may be hard to prove but much more difficult for the accused, although innocent, to disprove; that the prosecution cannot draw strength from the weakness of the defense; and that, above all, the testimony of the complainant must be scrutinized and evaluated with deliberate caution. [11] Normally, it is only the victim who can identify the culprit by the very nature of the crime, one which, almost always, is committed in seclusion. [12] The credibility of the rape victim should thus be beyond reproach.

In this case, the prosecution, in the view of the Court, has creditably discharged its function in seeking to prove its case against the accused.

Although barely ten years of age, Marilou so unflinchingly pointed at appellant as the person who twice sexually assaulted her. At the police station, SPO2 Richard Salvador testified that Marilou singled out appellant in a police line-up, thus:

"Q.

Will you describe that police line-up?

"A.

The police line-up was composed of ten (10) persons with respective numbers from 1 to 10.

"Q.

Is Mr. Pacistol included in that line-up?

"A.

Yes, sir.

"Q.

Do you remember the number given to Mr. Pacistol?

"A.

If I remember right, it was No. 4.

"Q.

And then after the police line-up, what happened, if any?

"A.

Well, the complainant, the victim Marilou Montalbo pinpointed to the No. 4 man who happened to be Danny Pacistol, Ma'am."^[13]

The contention of the defense that Marilou was merely coached by her grandfather when she identified appellant at the police line-up was correctly discarded by the trial court. The in-court identification made by Marilou herself was more than sufficient; thus:

"Q Do you recall on July 25, 1993 when you were brought to the police station by your Lolo, do you remember what happened there?

"A The police asked me to point the person who raped me.

“Q When you heard that from the police what did you do if any?

“A I pointed him, mam.

“Q Whom did you point?

“A Danny, mam.

“Q Do you know Danny?

“A Yes, mam.

“Q Why do you know him?

“A Because his feet is limp.

“Q Are you familiar with Danny?

“A Yes, mam.

“Q Why are you familiar with Danny?

“A Because he also go (sic) to the house of Carol, mam.

“Q And who is Carol?

“A My playmate, mam.

“Q Do you play at Carol’s house?

“A Yes, mam.

“Q When you play at Carol’s house you see Danny there?

“A Yes, mam.

“Q Look around the courtroom and if you could see Danny here please go near him and identify him.

“A (Witness stepped down the witness stand and go (sic) near a man pointed to him and when asked this man answered by the name of Danilo Pacistol.)

“ATTY. ARIAS:

I want to make it of record that immediately after the question was asked the witness unhesitantly proceeded without any sign of fear and pointed Danny.

“ATTY. CARBON:

“Q Before, you were afraid of Danny?

“A Yes, mam. I was afraid because his eyes was (sic) always reddish.

“Q And now are you still scared of Danny?

“A No more.[14]

Appellant, who used to be Marilou's grandfather's fellow worker was not at all unfamiliar to Marilou; thus:

“Q

Since you started to stay with your Lolo and Lola, did you meet several lame persons in the vicinity?

“A

Yes, sir.

“Q

How many?

“A

Only one, sir.

“Q

But you do not know the name before July 2?

“A

Not ye(t), sir.

“Q

That is why when your Lolo whipped you it was your Lolo who told you that the name of the lame man was Danny Pilay? Is that correct?

“A

Yes, sir.

“Q

As a matter of fact you did not tell your Lolo that the man who raped you was a pilay?

“A

It is true that I was raped by a lame person, sir.

“Q

Please answer the question, your Lolo whipped you because you did not tell him that the person who allegedly raped you was a lame man?

"A

I did not inform him immediately because I'm afraid to tell him, sir.

"Q

And it was your lolo who suggested to you the name Danny Pilay or told you Danny Pilay?

“A

Yes, sir.

“COURT:

“Q

You mean to say you never gave the word Danny or Danny Pilay to your Lolo?

“A

No, sir.

“Q

Why did you(r) Lolo know about Danny Pilay?

“A

Because they were always together with my Lolo in their job, sir.

“Q

Why did you(r) Lolo accused (sic) Danny Pilay for raping you?

“ATTY. CARBON:

Your Honor I’m not sure if she knows the word inakusahan.

“A

It is true that he was the one who raped me, sir.

“COURT:

“Q

I’m asking this is a very important question.

“ATTY. ARIAS:

Yes, your Honor.

“COURT:

“Q

Who raped you Miss Witness?

“A

Danny Pilay, sir.

Your witness.

“ATTY. ARIAS:

“Q

You said it was Danny because your Lolo told you, is that correct that it was Danny Pilay?

“ATTY. CARBON:

Your Honor the question is vague maybe what about Danny. Considering that the witness is a child the question should not be vague, about what about Danny (sic).

“ATTY. ARIAS:

Your Honor it's just a follow-up question to the Court's question.

“ATTY. CARBON:

“Considering, your Honor the age of the witness the question should be clear.

“COURT:

“What’s the question?

(At this juncture the stenographer read back the question.)

“ATTY. ARIAS:

That it was Danny Pilay.

“ATTY. CARBON:

May be it could be reform(ed) as it was Danny who raped you.

“COURT:

The question sounds seem somewhat . . . (sic)

“ATTY. ARIAS:

It is only a follow-up to this Hon. Question, because the witness already (sic) that it was her Lolo who suggested Danny or Danny Pilay it is already established, that is a very important question also, your Honor.

“COURT:

What’s the question again.

(at this juncture the stenographer read back again the question.)

“Q

Are you only saying the name Danny because your Lolo told you to say Danny?

“A

Yes, sir.

“Q

So Danny did not rape you?

“A

He raped me, sir.

“Q

But you told us that your Lolo only gave the name Danny?

“COURT:

I Repeat the question.

(At this juncture the stenographer read back the question.)

“ATTY. CARBON:

Your Honor may we asked (sic) the witness if she understand(s) the question.

“ATTY. ARIAS:

The question is now repeated by the Interpreter.

“A

Yes, sir.

“COURT:

“Q

So you were not raped(d) by Danny?

“ATTY. ARIAS:

The witness shown again some facial expressions which to our mind it was an expression of displeasure (sic).

“COURT:

I repeat the question.

“Q

Danny did not rape you?

“ATTY. ARIAS:

No answer again.

“COURT:

“Q

Did Danny Pilay raped (sic) you?

“ATTY. ARIAS:

The witness did not say yes she only nodded, your honor.

“COURT:

Repeat the question to the witness.

“A

Yes, sir.

“ATTY. ARIAS:

After she was asked several time(s) to answer from three or four times . . .

“COURT:

But she already said yes by nodding which you agreed before she said yes and now you objected (sic) on that.

“Q

What about your Lola did you tell your Lola the name of Danny?

“A

Yes, sir.

“Q

To whom did you first say the name Danny to your Lolo or to your Lola?

“A

To my grandmother, sir.

“Q

What name did you give to your Lola?

“A

Danny Pilay, sir.[15]

Appellant himself, on cross-examination, admitted having gone to the residence of the Hinay spouses.

“Q

Now prior to your arrest you claimed you have seen the complainant several times already, Mr. Witness?

“A

I only saw her minsang lang (sic), ma’am.

“Q

Do you recalled (sic) the date or the times you saw the complainant?

“A

I cannot remember, ma’am.

“Q

But you saw her at the PBMA compound Mr. Witness?

“A

Yes, ma’am.

“X X X X X X X X

“Q

Point of clarification you mentioned in your direct testimony that the first time you saw the complainant was at the Police Station and now you are saying that you have seen the complainant several times before at the Police Station, which is correct now, Mr. Witness?

“ATTY. ARIAS:

That was already clarified, your Honor.

“ATTY. CARBON:

Your Honor what was clarified was the grandfather . . . in fact there was a follow-up question by the opposing counsel wherein it was asked that the grandfather and the private complainant . . .

“ATTY. ARIAS:

We withdraw the objection, your Honor.

“COURT:

Read back the question.

(At this juncture the stenographer read back the question.)

“ATTY. ARIAS:

Your Honor just to make the records straight the witness stated `minsan' not several `minsan sa PBMA.'

“COURT:

Minsan once in a while.

“Q

What do you mean by minsan?

“A

I went to the PBMA I saw her once, sir.

“ATTY. CARBON:

“Q

How many times have you repair(ed) the appliances of the grandfather of the complainant?

“A

Once or twice, maybe, ma’am.”[16]

Marilou’s tender years could explain why appellant’s “red eyes” and his threat to kill and “place her in a sack” should she tell on him, so cowed the victim that held her from immediately and initially revealing her assailant’s identity. In any case procrastination, by itself, seldom worked to acquit a person accused of rape from liability.[17] The Court had long made the observation that many times rape victims would prefer to suffer in silence, rather than report the sexual assault to the authorities, for months or even years.

The positive identification of the malefactor all but demolishes to obscurity appellant’s alibi especially considering that no improper motive was imputed upon the victim.[18] In any event, appellant failed to prove physical impossibility[19] of his being in Banaba, San Mateo, after establishing that he was allegedly in Marikina, a town adjacent to San Mateo, a distance which could be negotiated in only forty-five minutes. Strangely, the defense witnesses were not even one on the whereabouts of appellant on 02 July 1993. His brother-in-law placed him in his house in Concepcion, Marikina, while Leticia Domingo swore that he was in her house in Midtown Subdivision, Phase 2, Marikina.

Appellant assails the “police line-up.” The uncounselled identification made at the police station, however, did not foreclose the admissibility of the independent in-court identification.[20] At the witness stand, the grueling cross-examination notwithstanding, Marilou stood pat on her identification of appellant as the person who brutishly twice took her innocence. The critical focus on the right guaranteed by Article III, Section 12(1), of the Constitution is at the stage when the accused is placed under custodial investigation. After the apprehension of an accused, the process in the criminal justice system is not necessarily forthwith shifted from the investigatory to the accusatory.[21]

Appellant’s claim that all proceedings emanating from his warrantless arrest should be inadmissible in evidence is an argument that has been raised much too late in the day. An objection involving a warrant of arrest or the procedure in the acquisition by the court of jurisdiction over the person of an accused should be made before he enters his plea[22] to avoid the possibility of that objection being deemed waived.

Appellant cites alleged “inconsistent and contradictory” statements of Marilou and her grandfather. To be sure, the testimonies may not be so described as flawless, but the triviality of “inconsistencies” hardly can affect either the substance or the veracity and weight of testimony which, just to the contrary, can serve to reinforce than weaken credulity.[23] In any case, there is no valid reason shown to deny to the trial court the respect due it in the determination of credibility of the witnesses.

The two complaints filed against appellant both charge the crime of rape. The complaints against appellant aver, undisputed by appellant, that Marilou was only ten years old, born on 22 June 1983 (Medico-Legal Report No. M-1126-93), when the two offenses were committed.

The gravamen of statutory rape is carnal knowledge of a woman below twelve (12) years of age; force or intimidation need not there be proved.[24] Statutory rape is penalized by reclusion perpetua.[25] Since it has been adequately established that appellant committed the crime twice, the trial court has correctly imposed upon him two penalties of reclusion perpetua. This single indivisible penalty is applicable regardless of the presence or absence of any mitigating or aggravating circumstance.[26] Apparently, it is in view of the commission of two crimes of rape that the indemnity of P60,000.00, or twice the then usual award of P30,000.00, has been decreed by the trial court. Recent jurisprudence has fixed the indemnity for the crime of rape to P50,000.00 under like circumstances; hence, for the two sexual assaults on 10-year old Marilou, appellant should be made liable for the amount of P100,000.00.[27]

WHEREFORE, the appealed decision finding appellant Danilo Pacistol y Lim guilty beyond reasonable doubt of two (2) counts of the crime of rape and imposing on him two (2) penalties of reclusion perpetua is hereby AFFIRMED subject to the modification that the civil indemnity of sixty thousand pesos (P60,000.00) adjudged in favor of the victim, Marilou H. Montalbo, by the trial court is increased to one hundred thousand pesos (P100,000.00). Costs against appellant.

SO ORDERED.

Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

[1] Records, p. 1.

[2] Ibid., p. 9.

[3] Maria Hinay, TSN, 10 November 1993, p. 13.

[4] Records, p. 17.

[5] Danilo Pacistol, TSN, 11 April 1994, p. 29.

[6] Ibid., p. 31.

[7] Ibid., p. 36.

[8] Rollo, pp. 40-41.

[9] Rollo, p. 41.

[10] Rollo, p. 88.

[11] People vs. Sanchez, 250 SCRA 14.

[12] People vs. Godoy, 250 SCRA 676.

[13] TSN, 09 February 1994, p. 6.

[14] TSN, 15 December 1993, pp. 28-31.

[15] TSN, 20 December 1993, pp. 18-24.

[16] TSN, 13 April 1994, pp. 19-22.

[17] People vs. Jimenez, 250 SCRA 349.

[18] People vs. Tazo, 260 SCRA, 816.

[19] See *People vs. Laurente*, 325 Phil. 897.

[20] *People vs. Lapura*, 325 Phil. 346.

[21] Parenthetically, in *People vs. Lamsing* (318 Phil. 561, 572 citing *Gamboa vs. Cruz*, 162 SCRA 642) the court has held that the right to counsel attaches only from the time adversary judicial proceedings are taken against the accused. The *Lamsing* case was decided almost a year after *People vs. Macam* (238 SCRA 306). The present case is not the proper vehicle for any possible re-examination of *Lamsing*.

[22] *People vs. Rivera*, 315 Phil. 454 citing *People vs. Codilla*, 224 SCRA 104.

[23] *People vs. Porras*, 325 Phil. 858.

[24] *People vs. Ulpindo*, 256 SCRA 201.

[25] Art. 335, Revised Penal Code.

[26] Art. 63, *supra*..

[27] *People vs. Esguerra*, 256 SCRA 657.

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.