

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROBERTO BERNAS Y NACARIO, APPELLANT.

G.R. Nos. 133583-85. February 20, 2002

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-133583-85/>

PANGANIBAN, J.:

When the accused pleads guilty to the charge, both the trial judge and the defense counsel must observe the stringent requirements of the Rules of Court and applicable jurisprudence in order to safeguard the constitutional rights of the accused. In the present case, the defense counsel not only failed to protect the rights of his client; worse, he even advised him to plead guilty to the Information that had failed to allege the essential elements of qualified rape. As a consequence, appellant was wrongly sentenced to death.

The Case

For automatic review by this Court are two related Decisions,[1] both dated February 27, 1998, promulgated by the Regional Trial Court (RTC) of Libmanan, Camarines Sur (Branch 57), in (A) Criminal Case No. L-1888 (which we will consider henceforth as Criminal Case No. L-1889, because it is clear from the subject Decision that the court a quo inadvertently interchanged the case numbers; it had meant to convict appellant under the latter and to acquit him under Criminal Case No. L-1888)[2] and (B) Criminal Cases Nos. L-1893 and L-1896, finding Roberto Bernas y Nacario guilty beyond reasonable doubt of three counts of rape.

The decretal portion of the Decision relating to Criminal Cases No. L-1889 (as well as L-1888 and L-1890) reads as follows:

Criminal Case No. L-1889

“WHEREFORE, in view of the foregoing, in Criminal Case No. L-188[8] and Criminal Case No. L-1890, respectively, the prosecution having failed to establish sufficient evidence to prove the guilt of the accused beyond reasonable doubt is ACQUITTED of the crime as charged.

“In Criminal Case No. L-188[9], the Court is morally convinced that the accused Roberto Bernas is GUILTY [b]eyond [r]easonable [d]oubt of the crime of [r]ape as defined and penalized under Article 335 of the Revised Penal Code as amended by Republic Act No. 7659 and he is hereby sentenced to suffer the penalty of DEATH and he is likewise ordered to indemnify the offended party, [in] the amount of [f]ifty [t]housand [p]esos, [t]en [t]housand [p]esos as moral damages and [f]ive [t]housand [p]esos as exemplary damages.

“SO ORDERED.”[3]

The disposition in Criminal Cases Nos. L-1893 and L-1896 (as well as L-1894 and L-1895) is worded in this wise:

Criminal Case Nos. L-1893 to L-1896

“WHEREFORE, in view of the foregoing, in Criminal Case No. L-1894 and in Criminal Case No. L-1895,

respectively, the prosecution having failed to establish sufficient evidence to prove the guilt of the accused beyond reasonable doubt, the accused Roberto Bernas is ACQUITTED of the crime as charged.

“In Criminal Case No. L-1893 and Criminal Case No. L-1896, the Court is morally convinced that the accused Roberto Bernas is GUILTY [b]eyond [r]easonable [d]oubt of the crime of [r]ape, as defined and penalized under Article 335 of the Revised Penal Code as amended by Republic Act No. 7659 and he is hereby sentenced to suffer the penalty of [d]eath for two counts and he is likewise directed to indemnify the offended party, [in] the amount of [o]ne [h]undred [t]housand [p]esos, [t]en [t]housand [p]esos as moral damages and [f]ive [t]housand [p]esos as exemplary damages.

“SO ORDERED.”[4]

Assistant Provincial Prosecutor Esperidion R. Solano charged appellant with rape in seven separate Informations. The latter was acquitted under four Informations and convicted under the other three, which are reproduced hereunder:

“Crim Case No. L-188[9]

“That on or about the [1[st]] day of July, 1996 at about 8:00 o’clock in the evening in Barangay Tible, Municipality of Sipocot, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who is the father of herein private complainant, with lewd and unchaste design, did then and there wilfully, unlawfully and feloniously have carnal knowledge of Evelyn Bernas y Tolentino, his 12 year old daughter, and to her damage and prejudice.[5]

Crim. Case No. L-1893

“That on or about May 7, 1996, more or less 10:00 o’clock in the evening, at Barangay Tible, Municipality of Sipocot, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his daughter Mary Jane[6] Bernas y Tolentino, a minor against her will and consent and to her damage and prejudice.[7]

Crim. Case No. L-1896

“That on or about June 10, 1996, more or less 9:00 o’clock in the evening, at Barangay Tible, Municipality of Sipocot, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with his daughter Mary Jane Bernas y Tolentino, a minor, against her will and consent and to her damage and prejudice.”[8]

When arraigned on the charges,[9] appellant, with the assistance of counsel,[10] pleaded not guilty. Thereafter, the prosecution presented its evidence in Criminal Cases Nos. L-1888, L-1889 and L-1890. After the prosecution rested its case, appellant -- through his counsel -- manifested that he did not want to present any evidence and was submitting the case for decision, based on the evidence presented by the prosecution. After being satisfied that the waiver was voluntary and intelligent, the RTC considered the cases submitted for decision.

Thereafter, the prosecution moved to reopen the case. It reasoned that due to inadvertence it had failed to present the Birth Certificate of the victim, Evelyn Bernas, a document that was necessary to prove the minority of the victim. Over the objection of the defense counsel, the court a quo granted the Motion to Reopen the case. The prosecution offered in evidence the Marriage Contract of the parents of the victim as well as her Birth Certificate. These were admitted in evidence. Thereafter, the case was submitted for decision.

In Criminal Cases Nos. L-1893 and L-1896, before the prosecution presented its evidence, appellant -- through his

counsel -- moved for the change of his former plea of not guilty to that of guilty, a Motion which the RTC granted. Appellant was thus re-arraigned, and he pleaded guilty to the criminal charges. Considering the severity of the charges, the trial court directed the prosecution to present further evidence to determine the precise degree of appellant's culpability.

As in the three prior cases, the defense waived its right to present evidence in the four later cases and submitted them for decision based on the evidence presented by the prosecution. The RTC then rendered the assailed Decisions.

The Facts

Version of the Prosecution

In its Brief,[11] the Office of the Solicitor General presented the facts as follows:

“For: G.R. No[s]. 133583-133585
(Criminal Case No[s]. L-1888, L-1893 and L-1896)

“On January 21, 1978, appellant Roberto Bernas and Celerina Tolentino were married in Sipocot, Camarines Sur. On January 10, 1981, the couple's first child named Mary Jane (or Marigen) was born. Their second child Evelyn was born on January 17, 1983. Subsequently, they had two (2) more children named Ginalyn and Joel.

“Shortly thereafter, appellant and his wife Celerina separated. Celerina took her daughter Evelyn with her and lived with her in Taguig, Rizal. Subsequently, Celerina brought Evelyn back to Bicol and left her to live with appellant and their other children at Brgy. Tible, Sipocot, Camarines Sur.

“For: G.R. No. 133583
(Criminal Case No. L-1888 [should be L-1889])

“On July 1, 1996, Evelyn then thirteen (13) years old, was living alone with her father at his house at Brgy. Tible, Sipocot, Camarines Sur as her other siblings had already run away from home. At 6:30 in the evening she went to sleep. Eventually, she was roused from sleep as she felt that appellant, her father, was on top of her and consequently, she could not move. At that time she noticed that her panty and shorts had been removed but her t-shirt was left on her and that her father was pointing his penis to her vagina. Appellant then inserted his penis into her vagina and she was resisting him but he held her hands and succeeded in penetrating her which caused her to feel pain. Thereafter, appellant removed his penis from her vagina, went to sleep and left Evelyn who was crying.

“She woke up at 4:00 o'clock A.M. of the following day while appellant was still sleeping. She had to go to her class as she was then still in Grade Five. Evelyn returned home at 4:00 o'clock P.M. and cooked supper while her father was not there. Thereafter, she took her clothes, ran away and slept at the house of her cousin Jerry Boncodin at Tible, Camarines Sur which [was] more or less three (3) kilometers away. She arrived there at about 5:00 o'clock in the afternoon. She slept there in the evening of July 2, 1997 and stayed there for two weeks.

“Subsequently, Evelyn informed her aunt Simeona Boncodin that her father had abused her. Her aunt told her to submit herself to a physical examination. Accordingly, Evelyn went to the Sipocot Rural Health Clinic at Sipocot, Camarines Sur for physical examination.

“Dr. Nena Cruz, Medical Officer of the Rural Health Clinic, conducted a Medical Examination of Evelyn Bernas for whom she issued a Medical Certificate. The findings stated therein are as follows:

- ‘1. Healed hymenal laceration at 3:00, 9:00,
2. Admits 1, 2, 3 finger with no resistance’

“During her testimony in court, Dr. Nena Cruz stated that it can be concluded from the aforesaid findings that the patient was repeatedly used or abused. On cross-examination, she stated that the lacerations were caused more than a month ago.

“For: G.R. No[s]. 133584-85
(Criminal Case No[s]. L-1893 and L-1896)

“On May 7, 1996, Marigen (or Mary Jane) Bernas, then fifteen (15) years old, was staying with her father Roberto Bernas at Brgy. Tible, Sipocot, Camarines Sur with her siblings Evelyn, Ginalyn and Joel. At about 7:00 o’clock in the evening of the same date, she was asleep with her sisters Evelyn and Ginalyn. She was awakened when she felt somebody on top of her whom she eventually recognized to be her father Roberto Bernas. She noticed that she was naked.

“She pleaded with him not to abuse her as she was his daughter but he boxed her. She struggled and resisted but her father held her legs open and inserted his penis in her vagina. She could not shout as her mouth was covered by her father’s hands. When her father inserted his penis in her vagina she felt pain and her father kept on pumping. Afterwards, her father went to sleep while she cried. She woke up at 7:00 o’clock in the morning of the following day, May 8, 1996.

“At about 6:00 o’clock in the evening of May 8, 1996, Marigen was sleeping when she saw her father standing beside her bed. She told him not to touch her as her vagina was still very painful so he left.

“On the following day, May 9, 1996, at about 7:00 o’clock in the evening, Marigen awakened and saw her father beside her bed. When she pleaded with him not to touch her as her vagina was still very painful, he left.

“On June 10, 1996, Marigen went to sleep at 9:00 o’clock in the evening with her sisters Evelyn and Ginalyn. Eventually, Marigen awakened and noticed somebody on top of her. It was her father Roberto Bernas and she noticed that she was already naked. Her father then inserted his penis in her vagina and started pumping while she kept pushing his body. She felt pain as her father was pumping and she kept on resisting but her father held both her hands and arms. Afterwards, she cried. On the following day, June 11, 1996 she left and went to stay at Lando Seguerra’s place.

“She reported the matter to Lando Seguerra and Simeona Boncodin. Afterwards, she submitted herself to a medical examination at the Sipocot District Hospital where she was issued a Medical Certificate. Said documents indicated the following findings:

“NOI — Allegedly Raped, DOI — July 7, 1996,
TOI — Around 7:00 P.M., POI- Tible
Sipocot, CS, DOE—Aug. 16, 1996, TOE— 11:15 AM.

INTERNAL EXAMINATION:

- Healed hymenal laceration at 3:00, 7:00, 9:00, 11:00
- Admits 1, 2 and 3 finger(s) with NO resistance.
- NO OTHER INTERNAL FINDINGS SEEN DURING THE TIME OF EXAMINATION[.]”[12] (Citations omitted, emphasis in the original)

Version of the Defense

On the other hand, appellant’s narration of the facts are as follows:[13]

“Roberto Bernas and Celerina Tolentino were married on January 21, 1978. They have four (4) children, namely Marigen, Evelyn, Genalyn and Joel. Since Celerina worked in Manila, she left her four (4) children to the care of husband.

“Marigen, their eldest child, accused their father of raping her in Criminal Case Nos. L-1893, L-1894, L-1895 and L-1896. She alleged [that she had] been raped by the accused-appellant on May 7, May 8, May 9 and June 10, 1996, [i]n almost the same situation and circumstance, that is in the evening, while she was sleeping.

“Evelyn, the second child of accused-appellant, also accused the latter of raping her in Crim[.] Case Nos. L-1888, L-1889 and L-1890. She alleged that her father raped her on July 1, 1996 while she was sleeping. The following day on July 2, 1996, her father tried to have sexual intercourse with her again but she told him not to touch her as her vagina was still painful. On July 3, 1996, she alleged that her father went on top of her and remained there for about an hour, thereafter, accused[-]appellant went to sleep.

“In all cases, accused-appellant, through counsel, manifested his desire not to present evidence in his behalf. The cases were decided on the evidence adduced by the prosecution.”[14]

Ruling of the Trial Court

The trial court held that appellant, through force and intimidation, had carnal knowledge of his two daughters: Evelyn (then 13 years old) on July 1, 1996 and May 7, 1996, and Marigen (then 15 years old) on June 10, 1996. It therefore imposed on appellant the supreme penalty of death for each act of rape. It also ordered him to indemnify Evelyn in the amount of P50,000 as indemnity ex delicto, P10,000 as moral damages and P5,000 as exemplary damages; and Marigen in the amount of P100,000 as indemnity ex delicto, P10,000 as moral damages and P5,000 as exemplary damages.

Hence, this automatic review before us.[15]

Issues

Appellant assigns the following errors for the Court’s consideration:

I

“The court a-quo gravely erred in finding that the guilt of the accused-appellant for the crimes charged ha[d] been proven beyond reasonable doubt.

II

“The court a-quo gravely erred in accepting accused-appellant’s improvident pleas of guilty to a capital offense and in failing to conduct a searching inquiry as to whether the accused-appellant fully understood the consequences of his plea.”[16]

Stated otherwise, the issues are whether the guilt of appellant has been proven beyond reasonable doubt, and whether his guilty pleas were improvident. We deem it wise to discuss the second error ahead of the first, because a meritorious ruling on the former would make a discussion of the latter unnecessary.

The Court’s Ruling

The appeal is meritorious.

First Issue:

Improvident Plea

Appellant argues that the trial court improvidently accepted his pleas of guilt to capital offenses without first

conducting a searching inquiry on whether he had fully understood the consequences of his pleas.

We agree. The Court observes that, indeed, sorely insufficient was the manner in which the trial judge conducted the inquiry into the voluntariness of the change to a plea of guilt and of appellant's comprehension thereof.

The transcript of stenographic notes showing how appellant's change of plea was conducted is herewith reproduced:

Criminal Case Nos. L-1889

“COURT:

All exhibits being offered are admitted. Let the presentation of evidence on the part of the accused be held x x x when?

ATTY. MIRABUENO:

The accused Your Honor, told me that he will no longer be presenting his evidence. So, may we ask Your Honor, the accused [-- does] he no longer [want] to present his defense[?]

PROS. CONTRERAS:

Do I understand from counsel that the accused does not want to take the witness stand[?]

ATTY. MIRABUENO:

We will submit these cases for Decision.

COURT:

Call the accused.
(The accused was called)

COURT:

Your lawyer, manifested that you are not going to present evidence for your defense. What do you say to that?

ACCUSED:

Yes, Your Honor, I want these cases to be finished. I admit my guilt and I am very sorry that I will not fight this anymore. I am bothered by my conscience.

COURT:

Q:

You are charged for the crime of rape of your daughter, committed on July 1, 2 & 3, 1996. Do you understand that?

A:

Yes, Ma'am.

Q:

At the arraignment, you entered a plea of not guilty, [did you] not?

A:

Yes, Your Honor.

Q:

But now your counsel manifested that you are withdrawing your plea of not guilty and instead you will enter a plea of guilty to three counts of rape, committed on July 1, 2 & 3?

A:

That is true, Ma'am.

Q:

Do you understand the consequences of your withdrawing a plea of not guilty [for] a plea of guilty of the crime of rape charged against you by your daughter?

A:

Yes, Ma'am. It was explained to me by my lawyer.

Q:

Three cases of rape ha[ve] been filed against you by your daughter. If we proceed with the trial, and if it is proven that you had committed the crime as charged, the penalty would be three [death] sentences. Do you understand that?

A:

Yes, ma'am.

Q:

Did anybody [force] you to change you[r] plea of not guilty to a plea of guilty?

A:

None Ma'am. I am sorry for having done it. I am repentant. Nobody forced me to change my plea. I am doing this voluntarily.

Q:

The prosecution ha[s] already rested its case. Let me explain to you that at this stage, even if [you] plead guilty to the crime as charged, this will not be considered to mitigate the penalty to be imposed upon you. Do you understand that?

A:

Yes, Ma'am, It was explained to me by my lawyer.

Q:

Let us straighten this out. You now admit that you raped your daughter Evelyn on July 1, July 2 & July 3, 1996? Is this true?

A:

Yes, Ma'am.

Q:

Your lawyer said that you are not presenting evidences to defend yourself.

A:

Yes, Ma'am, because I already admitted that I had sexual intercourse with her on those three occasions.

Q:

So, you want to tell this Court that these cases be decided based on the evidences presented by the prosecution?

A:

Yes, Ma'am. I will not fight this anymore. I admit my guilt.

COURT:

[All]right. The Court is fully convinced that the accused voluntarily admits his guilt. His clear and firm answer to the questions of the Court, shows that he fully understands the consequences of admitting his guilt.

Considering the manifestation of counsel and accused, the accused having waived the right to present evidence in his behalf, these cases are submitted for decision based upon the evidences adduced by the prosecution.[17]
(Italics supplied)

Criminal Case Nos. L-1893 and L-1896

“ATTY. MIRABUENO:

Your Honor, before we proceed, may I inform the Court that the accused is willing to plead guilty to two counts of rape and the two others be dismissed.

COURT:

What do you say Fiscal?

PROS. CONTRERAS;

What are these two?

ATTY. MIRABUENO:

The first and the last, May 7 and June 10, 1996.

COURT:

Call the accused.

COURT:

Q:

You are charged [with] the crime of rape by your daughter, committed on May 7, 8, 9 and June 10, 1996. Do you understand that?

A:

Yes, Ma'am.

Q:

At the arraignment, you entered a plea of not guilty[, did you] not?

A:

Yes, Your Honor.

Q:

But now, your counsel. manifested that you are withdrawing your plea of not guilty and instead you will enter a plea of guilty to two counts of rape, committed on May 7 and June 10, 1996, but on that [sic] the other charges, on May 8 and May 9, 1996, be dismissed. What do you say to that?

A:

That is true, Ma'am.

Q:

Why would you plea[d] guilty to two counts of rape, committed on May 7 and June 10, 1996, but on the charges on May 8 and May 9, 1996, you are asking that these cases be dismissed?

A:

Because, I only had sexual intercourse with my daughter, Mary Jane on May 7 and June 10, 1996, but I did not molest her on May 8 and May 9, 1996.

Q:

Do you understand the consequences of your withdrawing a plea of not guilty [for] a plea of guilty of the [c]rime of Rape charged against you by your daughter?

A:

Yes, Ma'am. It was explained to me by my lawyer.

Q:

There are four cases of rape x x x filed against you by your daughter. If we proceed with the trial, and if it is proven that you ha[ve] committed the crime as charged, the penalty would be four death sentences. Do you

understand that?

A:

Yes, Ma'am. ;

Q:

Why are you admitting your guilt now for the two counts of Rape committed on May 7, 1996 and June 10, 1996, but would like the charges [for] May 8, 1996 and May 9, 1996, [to] be dismissed?

A:

I admit having abused my daughter on May 7, 1996 and June 10, 1996, but on May 8, 1996 and May 9, 1996, I did not have sexual intercourse with her.

Q:

Did anybody [force] you to change your plea of not guilty to a plea of guilty?

A:

None, Ma'am. I am sorry for having done it. I am repentant. Nobody forced me to change my plea. I am doing this voluntarily.

COURT:

Alright, re-arraign the accused in Criminal Cases Nos. L-1893 and 1896. The plea of NOT GUILTY of the accused entered in Criminal Cases Nos. L-1894 and L-1895 stands.

INTERPRETER:

Your Honor, the accused pleaded GUILTY to the crime as charged in Criminal Cases Nos. L-1893 and L-1896.

x x x x x x x x"[18] (Italics supplied)

From the foregoing, it is clear that the trial court did not satisfactorily conduct a searching inquiry into the voluntariness of the change of plea by appellant and into his full comprehension of it. Worse, the trial judge advised the accused that "[i]f we proceed with the trial, and if it is proven that you had committed the crime as charged, the penalty would be x x x death sentences."

Section 3, Rule 116 of the Rules of Court mandates:

"SEC. 3. Plea of guilty to a capital offense; reception of evidence. -- When the accused pleads guilty to a

capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and shall require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence in his behalf.”

In *People v. Aranzado*,^[19] the Court reiterated the rules a trial court must observe when an accused desires to plead guilty to a capital offense:

(1)

The court must conduct a searching inquiry into the voluntariness and full comprehension of the consequences of the plea;

(2)

The court must require the prosecution to present evidence to prove the guilt of the accused and the precise degree of his culpability; and

(3)

The court must ask the accused if he desires to present evidence in his behalf and allow him to do so if he desires.

Moreover, in *Aranzado*,^[20] the Court explained how the first requirement -- a “searching inquiry” -- should be conducted, as follows:

“(1)

Ascertain from the accused himself (a) how he was brought into the custody of the law; (b) whether he had the assistance of a competent counsel during the custodial and preliminary investigations; and (c) under what conditions he was detained and interrogated during the investigations. These the court shall do in order to rule out the possibility that the accused has been coerced or placed under a state of duress either by actual threats or physical harm coming from malevolent or avenging quarters.

“(2)

Ask the defense counsel a series of questions as to whether he had conferred with, and completely explained to the accused the meaning and consequences of a plea of guilty.

“(3)

Elicit information about the personality profile of the accused, such as his age, socio-economic status, and educational background, which may serve as a trustworthy index of his capacity to give a free and informed plea of guilty.

“(4)

Inform the accused [of] the exact length of imprisonment or nature of the penalty under the law and the certainty that he will serve such sentence. Not infrequently indeed an accused pleads guilty in the hope of a lenient treatment or upon bad advice or because of bad promises of the authorities or parties of a lighter penalty should [h]e admit guilt or express remorse. It is the duty of the judge to see to it that the accused does not labor under these mistaken impressions.

“(5)

Require the accused to fully narrate the incident that spawned the charges against him or make him reenact the manner in which he perpetrated the crime, or cause him to supply missing details of significance.” (Citations omitted)

It is clear that the court a quo failed to meet these exacting guidelines. First, the records do not show whether the defense counsel was asked a series of questions on whether he had explained the meaning and the consequences of appellant's change of plea. Second, no information was elicited by the trial court about the personality profile of appellant that may serve as a trustworthy index of his capacity to give a free and informed plea of guilt. Third, the trial court erroneously told him that: "[i]f we proceed with the trial, and if it is proven that you had committed the crime as charged, the penalty would be x x x death sentences." This implied that it would be better for him not to proceed with the trial, because if it was going to be proven that he committed the crimes charged, then the death penalty would surely be meted out to him. Finally, the RTC did not require him to fully narrate the "rape incidents" or reenact the manner in which he had perpetrated the crimes.

In addition, the defense counsel was lackadaisical, if not outrightly incompetent, in protecting the rights of appellant. First, he failed to object to the sufficiency of the Information in Criminal Case No. 1889 (this will be explained further below). Worse, he advised the latter to plead guilty to an Information that did not sufficiently state all the elements of qualified rape. Second, despite the initial Motion of the defense counsel to have a pretrial of the aforesaid cases, he later moved to waive this right after the hearing was postponed several times. Third, he did not present any evidence for the defense. In fact, he had already moved to waive his client's right to present it, even before the prosecution presented its evidence for some of the charges. Fourth, he failed to advise appellant that even if he had pleaded guilty to some of the charges and denied the others, the penalty of death would still have been meted out to him.

Why would appellant change his plea and waive his right to present evidence? It seems to us that his change of plea and his waiver of his right to present evidence were advised by his counsel in order to get rid of dreary work, rather than protect the rights of his client.

Information in Criminal Case No. L-1889

As earlier stated, the Information in Criminal Case No. L-1889 does not charge the heinous crime of rape.

Article 335 of Revised Penal Code, the law at the time appellant ravished Evelyn, states:

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

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age or is demented.

"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 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 reclusion perpetua to death.

"The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

- when the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the

parent of the victim.

- when the victim is under the custody of the police or military authorities.
- when the rape is committed in full view of the husband, parent, any of the children or other relatives within the third degree of consanguinity.
- when the victim is a religious or a child below seven (7) years old.
- when the offender knows that he is afflicted with Acquired Immune Deficiency Syndrome (AIDS) disease.
- when committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.
- when by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation.”

In *People v. Mahinay*,^[21] the Court explained the elements of rape as follows:

“The gravamen of the offense of rape, prior to R.A. 8353, is sexual congress with a woman by force and without consent. (Under the new law, rape may be committed even by a woman and the victim may even be a man.) If the woman is under 12 years of age, proof of force and consent becomes immaterial not only because force is not an element of statutory rape, but the absence of a free consent is presumed when the woman is below such age. Conviction will therefore lie, provided sexual intercourse is proven. But if the woman is 12 years of age or over at the time she was violated, as in this case, not only the first element of sexual intercourse must be proven but also the other element that the perpetrator’s evil acts with the offended party was done through force, violence, intimidation or threat needs to be established. x x x.”^[22] (Italics supplied)

Other than the allegation of carnal knowledge, no other element of rape as defined by law is alleged in the Information. More to the point, it does not state that the rape was committed through force, violence, intimidation, threat or even through moral ascendancy. It does not even allege that the carnal knowledge was without the consent or against the will of Evelyn. The real nature of the criminal charge is determined by the actual recital of facts in the complaint or information, as the Court held in *People v. Mendoza*:^[23]

“It is well settled that the real nature of the criminal charge is determined not from the caption or preamble of the Information nor from the specification of the provision of law alleged to have been violated, they being conclusions of law, but by the actual recital of facts in the complaint or information.”^[24]

The Court explained that the purpose of the information was to inform the accused of the nature and cause of the charge against him so as to enable him to prepare a suitable defense. Equally important, he cannot be convicted of an offense higher than that with which he is charged.

“x x x. The Constitution guarantees the right of every person accused in a criminal prosecution to be informed of the nature and cause of accusation against him. This right finds amplification and implementation in the different provisions of the Rules of Court. Foremost among these enabling provisions is the office of an information.

“The facts stated in the body of the information determine the crime of which the accused stands charged and for which he must be tried. This recital of the essentials of a crime delineates the nature and cause of accusation against an accused.

“It is fundamental that every element of which the offense is composed must be alleged in the complaint or information. The main purpose of requiring the various elements of a crime to be set out in an information is to enable the accused to suitably prepare his defense. He is presumed to have no independent knowledge of the facts that constitute the offense.

“An accused person cannot be convicted of an offense higher than that with which he is charged in the complaint or information on which he is tried. It matters not how conclusive and convincing the evidence of guilt may be, but an accused cannot be convicted of any offense, unless it is charged in the complaint or information on which he is tried or is necessarily included therein. He has a right to be informed of the nature of the offense with which he is charged before he is put on trial.”[25]

Added the Court in another case:

“x x x. In order that this requirement may be satisfied, facts must be stated; not conclusions of law. Every crime is made up of certain acts and intent; these must be set forth in the complaint with reasonable particularity of time, place, names (plaintiff or defendant), and circumstances. In short, the complaint must contain a specific allegation of every fact and circumstance necessary to constitute the crime charged.”[26]

Since the Information in Criminal Case No. L-1889 fails to allege the essential elements of qualified rape, appellant should not have been convicted of that crime. Otherwise, his constitutional right to be informed of the nature and cause of the accusation against him would be violated. And yet, counsel advised him to plead guilty of qualified rape, and the trial court convicted him accordingly.

Because in its proceedings the RTC failed to observe the exacting guidelines on how to conduct a “searching inquiry,” and because the defense counsel failed to protect the right of appellant to due process, we have no other choice but to remand the case to the court a quo for further proceedings that would conform with what we have heretofore expressed.

Because of the order of remand, the other assigned error will no longer be addressed.

WHEREFORE, the Decisions in Criminal Cases Nos. 1889, 1893 and 1896 dated February 27, 1998, issued by the Regional Trial Court of Libmanan, Camarines Sur (Branch 57), are hereby SET ASIDE. The cases are REMANDED to the court of origin for further proceedings to be conducted with all deliberate speed, in accordance with this Decision. No costs.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Quisumbing, Buena, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and Carpio, JJ., concur.

[1] Penned by Judge Thelma C. Villareal.

[2] As can be gleaned from the assailed Decision, the RTC was morally convinced that appellant had raped Evelyn on July 1, 1996 (Criminal Case No. 1889), but entertained doubts on whether he had indeed raped her on July 2, and 3, 1996 (Criminal Case Nos. 1888 & 1890). In its own words: “But with respect to the July 2 & 3 incident[s], the court entertains doubt as to the culpability of the accused.” See assailed Decision, p. 9; rollo, p. 25.

[3] Rollo, pp. 74-75; records, Vol. I, pp. 56-57.

[4] Rollo, p. 84; records, Vol. 2, p. 46.

[5] Ibid., p. 11; *ibid.*, p. 1.

[6] The RTC ordered the correction of the name “Mary Jane” to “Marigen” in the records, TSN, October 14, 1997, p. 8.

[7] Rollo, p. 11; records, Vol. 2, p. 1.

[8] Ibid., p. 12; *ibid.*, Vol. 2, p. 3.

[9] On February 10, 1997 for Crim. Case No. L-1888/L1889 (records, Vol. 1, p. 16), and on June 26, 1997 for Crim. Case Nos. L-1893 and 1896 (records, Vol. 2, p. 26).

[10] Atty. Dante Mirabueno.

[11] Appellee's Brief was signed by Asst. Sol. Gen. Cecilio O. Estoesta and Solicitor Anna Esperanza R. Solomon.

[12] Appellee's Brief, pp. 12-17; rollo, pp. 107-112.

[13] Appellant's Brief was signed by Attys. Arceli A. Rubin, Amelia C. Garchitorena and Alteza A. Añozo of the Public Attorney's Office.

[14] Appellant's Brief, p. 7; rollo, p. 55.

[15] This case was deemed submitted for resolution on February 28, 2000, upon receipt by this Court of appellant's Reply Brief.

[16] Appellant's Brief, p. 10; rollo, p. 52.

[17] TSN, October 30, 1997, pp. 7-10; records, Vol. I, pp. 89-92.

[18] TSN, October 14, 1997, pp. 3-5.

[19] GR Nos. 132442-44, September 24, 2001, p. 9. These rules were laid down in *People v. Camay*, 152 SCRA 401, July 29, 1987.

[20] Ibid., pp. 10-11, per Davide Jr., CJ.

[21] 302 SCRA 455, February 1, 1999.

[22] Ibid., p. 476, per curiam.

[23] 175 SCRA 743, July 31, 1989.

[24] Ibid., p. 752, per Fernan, CJ.

[25] *People v. Larena*, 309 SCRA 305, 322, June 29, 1999, citing *People v. Ramos*, 296 SCRA 559, September 25, 1998, per Regalado, J.

[26] *Pecho v. People*, 262 SCRA 518, 527, per Davide Jr., CJ., citing *US v. Karelsen*, 3 Phil. 223, January 21, 1904.

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.