

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. BERNABE GUTIERREZ Y GUTIERREZ, APPELLANT.

G.R. Nos. 147656-58. May 09, 2003

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-147656-58/>

YNARES-SANTIAGO, J.:

Appellant Bernabe Gutierrez y Gutierrez appeals the joint decision[1] dated November 24, 2000 of the Regional Trial Court of Dagupan City, Branch 42, in Criminal Cases Nos. 99-03160-D, 99-03161-D and 99-03162-D, finding him guilty beyond reasonable doubt of three counts of rape committed against complainant Gina Alcantara y Velasquez; sentencing him to suffer the penalty of reclusion perpetua for each count; and ordering him to pay the complainant the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages for each count plus costs.

In three separate Informations, similarly worded except for the dates and times of the commission of the offense, appellant was charged with rape committed as follows:

That on or about July 24, 1999 at around 3:00 o'clock in the afternoon[2] at barangay Salaan, municipality of Mangaldan, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, who is the uncle of complainant, armed with a knife and by means of force, threat and intimidation, did then and there, wilfully, unlawfully and feloniously have carnal knowledge of her niece GINA V. ALCANTARA, against her will and without her consent, to the damage and prejudice of the latter.

CONTRARY to Art. 335 of the Revised Penal Code, as amended by R.A. 7659.[3]

Appellant pleaded not guilty to the crimes charged. The three cases were consolidated and jointly tried.

Complainant is appellant's niece; her grandmother is the sister of appellant's mother, Francisca Gutierrez. Together with her sister, Matet, complainant worked in appellant's house in Barangay Salaan, Mangaldan, Pangasinan, where they took care of appellant's bedridden mother. On July 24, 1999, at 3:00 p.m., appellant sent Matet to buy medicine in Dagupan City. After Matet left, appellant dragged complainant to his room, where he pointed a knife at her and ordered her to remove her shorts and panties. She pleaded for him to stop but he ignored her. He took off his shorts and briefs, made her lie on the bed, lay on top of her and inserted his penis into her vagina. After performing sexual intercourse with complainant, appellant told her not to tell anyone what happened, otherwise he will kill her and her family.[4]

On July 30, 1999, at 5:00 p.m., complainant was in the kitchen of appellant's house preparing the meal for his mother. Again, appellant pulled her into his room, pointed a knife at her and ordered her to undress. Overwhelmed with fear, she acceded to his demands. He then removed his shorts and briefs and had sexual intercourse with her on the bed. As in the previous incident, he threatened to kill complainant and her family if she told anyone about the incident.[5]

In the afternoon of August 12, 1999, complainant was in her house in Barangay Salay, Mangaldan, attending a

prayer for the death anniversary of her deceased mother, who died on August 12, 1985. At 4:30 p.m., Matet, who was in appellant's house, sent word to her that appellant was very angry at her. She arrived at his house at 5:00 p.m. to relieve Matet of her duties. She found that appellant was indeed very angry at her and asked her why she was late. At 6:00 p.m., after Matet was gone, appellant pulled her inside the room and forced her to take off her clothes while pointing a knife at her. He pushed her to the bed, lay on top of her and raped her.[6]

On August 15, 1999, appellant again tried to sexually molest complainant but she was able to run to the room of his mother before he could draw his knife. That same day, appellant's brother, Boyet, arrived from Hawaii and stayed in his house for four days. Before Boyet left for Manila on August 19, 1999, complainant mustered the courage to tell him what appellant had done to her. Boyet decided to take complainant to the house of her sister, Brenda, in Pasay City. On August 23, 1999, complainant was accompanied by her aunt, Beatriz Saciao, to Mangaldan, where they filed formal complaints against appellant for rape with the police. Upon advice of the police, complainant underwent physical examination.[7]

Dr. Revelina A. Millan, Medical Officer III of Region I Medical Center, conducted the examination on complainant and found the following:

—

GO LMP-August 17-21, 1999

—

PMP - July 13-17, 1999

—

Conscious, coherent, not in distress

—

Skin, (-) abrasions, (-) hematoma

—

Genitalia - with hymenal laceration at 3 o'clock,

—

5 o'clock and 7 o'clock position introitus admits

—

2 fingers with ease

—

for vaginal smear for presence of spermatozoa

—

Results: - Negative for the presence of spermatozoa[8]

Appellant denied the charges of rape and alleged that all his sexual encounters with complainant were consensual.[9] He presented the testimonies of his two nieces, Irene and Daisy, both surnamed Gutierrez, to corroborate his claim.

Irene testified that between the months of July and August 1999, she took care of her grandmother, Francisca Gutierrez, together with her sisters, Marissa and Daisy, and complainant and Matet, in appellant's house. There, she observed that complainant was always happy and acted sweet towards appellant. Sometime between May and June, when their grandmother was confined at Nazareth General Hospital in Dagupan City, they stayed in the hospital while complainant and appellant slept in the house.[10]

Daisy testified that she also took care of her grandmother, Francisca Gutierrez. When the latter was in the hospital, she sometimes slept in appellant's house together with him and complainant. She noticed that complainant and appellant were very sweet to each other. She even saw her place her leg on top of appellant's legs while they slept.[11]

On November 24, 2000, the trial court rendered judgment, the decretal portion of which reads:

WHEREFORE, the accused in the above-entitled cases, BERNABE GUTIERREZ, is hereby found guilty beyond reasonable doubt of three (3) counts of consummated rape as charged in the above-entitled three (3) cases and as defined by Article 335 of the Revised Penal Code and penalized by Republic Act 7659, otherwise known as the Heinous Crime Law, and there being no mitigating or aggravating circumstance to be considered, he is hereby sentenced to suffer RECLUSION PERPETUA in each of the herein three (3) cases. He is also required to indemnify Gina Alcantara P50,000.00 and to pay her P50,000.00 as moral damages as well as P25,000.00 as exemplary damages in each case plus costs.

SO ORDERED.[12]

Hence, this appeal based on the following assignment of errors:

I.

THE TRIAL COURT COMMITTED REVERSIBLE ERROR WHEN IT ASSUMED JURISDICTION OVER THE THREE (3) COUNTS OF RAPE CHARGED AGAINST THE ACCUSED-APPELLANT DESPITE THE PATENT DEFECT IN ALL THE THREE (3) INFORMATIONS, i.e., SAID INFORMATION DO NOT CHARGE AN OFFENSE AT ALL.

II.

THE TRIAL COURT COMMITTED REVERSIBLE ERROR WHEN IT FAILED TO MENTION IN ITS JOINT DECISION ANY EXISTING LAW UPON WHICH HIS DECISION WAS BASED.

III.

THE TRIAL COURT COMMITTED REVERSIBLE ERROR IN CONVICTING ACCUSED-APPELLANT DESPITE THE FACT THAT PRIVATE COMPLAINANT FAILED TO ESTABLISH THAT DEGREE OF THREAT, FORCE, OR INTIMIDATION SUFFICIENT TO COMPEL HER TO SUBMIT TO THE ACCUSED-APPELLANT.

IV.

THE TRIAL COURT COMMITTED REVERSIBLE ERROR IN CONVICTING ACCUSED-APPELLANT WITH THREE (3) COUNTS OF RAPE DESPITE THE FACT THAT PROSECUTION FAILED TO PROVE THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT.

V.

THE TRIAL COURT COMMITTED REVERSIBLE ERROR WHEN IT DID NOT CONSIDER THE UNNATURAL AND UNCOMMON BEHAVIOR OF PRIVATE COMPLAINANT AFTER THE ALLEGED RAPE/S.

VI.

THE TRIAL COURT COMMITTED REVERSIBLE ERROR IN ARRIVING AT AN ERRONEOUS CONCLUSION THAT THE FACT THE PRIVATE COMPLAINANT HAD HYMENAL LACERATIONS WAS CONSISTENT AND CONCLUSIVE WITH HER ALLEGATIONS THAT SHE WAS RAPED.

VII.

THE COUNSEL FOR THE ACCUSED-APPELLANT DID NOT EXERCISE THE REQUIRED ORDINARY DILIGENCE OR THAT REASONABLE DEGREE OF CARE AND SKILL EXPECTED FROM HIM RELATIVE TO HIS CLIENT'S DEFENSE WHEN HE OPTED NOT TO PRESENT THE ACCUSED-APPELLANT TO REFUTE THE TESTIMONY OF THE PRIVATE COMPLAINANT AND TO PRESENT ANY EVIDENCE TO DEFEND HIS CLIENT.[13]

Prefatorily, appellant contends that the Informations were all invalid for not substantially conforming to the prescribed form, particularly as to the designation of the offense by the statute. He argues that the three Informations cited Article 335 of the Revised Penal Code which, however, had already been repealed at the time of filing of the Informations by Republic Act No. 8353 or The Anti-Rape Law of 1997. Furthermore, he asserts that the decision failed to comply with the constitutional mandate that a judgment of conviction must state clearly and distinctly the facts and the law on which it is based.

We are not persuaded.

A complaint or information is sufficient if it states (a) the name of the accused; (b) the designation of the offense given by the statute; (c) the acts or omissions complained of as constituting the offense; (d) the name of the offended party; (e) the approximate date of the commission of the offense; and (4) the place where the offense was committed.[14]

With respect to the designation of the offense, Rule 110, Section 8 of the Revised Rules of Criminal Procedure provides:

Designation of the offense. — The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

A simple reading of the foregoing rules shows that only the designation of the offense given by the statute is necessary. In the case at bar, the designation of the offense is rape, which is clearly indicated in the caption as well as in the preamble of each Information. It is only when there is no specific name given to the offense that reference to the section or subsection of the statute punishing it may be made. This usually applies to offenses under special laws, in which case the offense is described as a violation of the statute which defines and penalizes it.

Moreover, 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, as these are mere conclusions of law. Rather, the nature of the accusation is determined by the actual recital of facts in the complaint or information.[15] It is not even necessary for the protection of the substantial rights of the accused or the effective preparation of his defense that the accused be informed of the technical name of the crime of which he stands charged. He must look to the facts alleged.[16]

We likewise do not agree with appellant's assertion that the decision failed to state clearly and distinctly the facts and the law on which it is based. Contrary to his bare allegation, we find that the decision sufficiently set forth in

detail the facts alleged by both parties and laid down the applicable law and jurisprudence on which the trial court based its judgment of conviction, as well as the penalty and civil liability imposed on appellant.

Appellant admits that he had sexual intercourse with complainant on several occasions but denies that the same was attended by force or intimidation. He points out that complainant neither resisted nor shouted for help, considering that the room of her grandmother was adjacent to his room. Further, no physical injuries were found on her body to show force or intimidation.

The contentions are without merit.

The seeming lack of an effective struggle did not mean that appellant's sexual advances did not constitute rape. Physical resistance need not be proved in rape when intimidation is exercised upon the victim and she submits herself, against her will, to the rapist's advances because of fear for her life and personal safety. It suffices that the intimidation produces fear in the mind of the victim that if she did not submit to the bestial demands of the accused, something worse would befall her at the time she was being molested.[17] In the case at bar, appellant pointed a knife at complainant while raping her. Threatening the victim with bodily injury while holding a knife or a bolo constitutes intimidation sufficient to bring a woman to submission to the lustful desires of the molesters.[18] In such a case, the absence of external signs or physical injuries on the victim does not negate the commission of rape.[19] More importantly, appellant was complainant's uncle, who exercised moral ascendancy over her. It is a settled rule that in rape committed by a close kin, moral ascendancy takes the place of violence and intimidation.[20]

Complainant remained steadfast in her testimony that appellant raped her on three occasions despite rigorous cross-examination. She cried during her testimony when she could no longer control the outbursts of her emotion, thereby indicating that she was telling the truth.[21] These facts cannot simply be overturned by a mere blanket denial and assertion on appellant's part that all their sexual encounters were consensual. Verily, rape is not a simple physical violation. It debases a woman's dignity, leaving a stigma on her honor and scarring her psyche for life. The fact that it was committed by a relative, whether close or distant, makes it even more abhorrent. Certainly, no woman in her right mind would fabricate a story of bestiality against her own relative that could sully her reputation and expose herself, as well as her family, to all sorts of public aspersions if she were not motivated to seek justice for a wrong committed against her.[22] Complainant's tale of defloration was found by the trial court to be credible, thus, it is sufficient to warrant a judgment of conviction.[23]

Needless to state, the oft-repeated principle is that the assessment of the credibility of witnesses and their testimonies is a matter best undertaken by a trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude under examination. Its findings on such matters are binding and conclusive on appellate courts unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted.[24]

Complainant's failure to immediately report the rape does not diminish her credibility. The silence of a victim of rape or her failure to disclose her misfortune to the authorities without loss of material time does not prove that her charge is baseless and fabricated.[25] It is not uncommon for young girls to conceal for some time the assault on their virtues because of the rapist's threat on their lives, more so when the offender is someone whom she knew and who was living with her.[26] The delay in this case was sufficiently explained and, hence, did not destroy complainant's credibility.

Appellant assails the trial court's finding that the lacerations in complainant's hymen were consistent to her claim that she was raped, saying that there was no testimony given to this effect by the medico-legal officer. This argument deserves scant consideration. In a prosecution for rape, the material fact or circumstance to be

considered is the occurrence of the rape.[27] The medical examination of the victim, as well as a medical certificate, is merely corroborative in character and is not an essential element of rape.[28]

Finally, we are not persuaded by appellant's argument that he was deprived of the opportunity to submit his evidence and to disprove the evidence for the prosecution due to the inefficiency and negligence of his former counsel, who prematurely terminated his direct examination after asking him a few irrelevant questions. It is a well-settled rule that the client is bound by his counsel's conduct, negligence, and mistakes in handling the case and the client cannot be heard to complain that the result might have been different had his lawyer proceeded differently.[29]

The trial court, thus, correctly found appellant guilty beyond reasonable doubt of three counts of rape. Under Article 266-B of the Revised Penal Code, where the rape was committed with the use of deadly weapon, the penalty shall be reclusion perpetua to death. Article 63 of the Revised Penal Code provides that where the penalty prescribed by law is composed of two indivisible penalties and there are neither mitigating nor aggravating circumstance in the commission of the crime, the lesser penalty shall be imposed. Hence, the trial court was correct in sentencing appellant to suffer the penalty of reclusion perpetua for each count of rape.[30]

As to the civil liability, the trial court was also correct in awarding to the complainant the amounts of P50,000.00 as civil indemnity and P50,000.00 as moral damages for each act of rape. Civil indemnity[31] and moral damages[32] are automatically granted once the fact of rape had been established. However, the award of exemplary damages must be deleted. Under Article 2230 of the Civil Code, exemplary damages may be awarded only where an aggravating circumstance attended the commission of the offense.

WHEREFORE, in view of the foregoing, the Decision of the Regional Trial Court of Dagupan City, Branch 42, in Criminal Case Nos. 99-03160-D, 99-03161-D and 99-03162-D, finding appellant Bernabe Gutierrez y Gutierrez guilty beyond reasonable doubt of three counts of rape, sentencing him to suffer the penalty of reclusion perpetua for each count and ordering him to pay complainant Gina Alcantara the amounts of P50,000.00 as civil indemnity and P50,000.00 as moral damages in each case, is **AFFIRMED** with the **MODIFICATION** that the award of exemplary damages is **DELETED** for lack of legal basis.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Carpio, and Azcuna, JJ., concur.

[1] Penned by Judge Luis M. Fontanilla.

[2] The offenses in Criminal Cases Nos. 99-03161-D and 99-03162-D were allegedly committed on July 30, 1999 at around 5:00 p.m. and August 12, 1999 at around 6:00 p.m., respectively; Rollo, pp. 10-13.

[3] Rollo, pp. 8-10.

[4] TSN, February 10, 2000, pp. 29-34.

[5] Id., pp. 35-40.

[6] Id., pp. 40-48.

[7] TSN, February 10, 2002, pp. 49-63.

[8] Folder of Exhibits, p. 1.

- [9] TSN, November 8, 2000, p. 2.
- [10] TSN, October 17, 2000, pp. 2-9.
- [11] TSN, October 24, 2000, pp. 3-12.
- [12] Rollo, p. 45.
- [13] Id., pp. 75-76.
- [14] Revised Rules of Criminal Procedure, Rule 110, Section 6.
- [15] People v. Bernas, G.R. Nos. 133583-85, 20 February 2002.
- [16] People v. Sadosa, 352 Phil 700, 708 [1998].
- [17] People v. Llanto, G.R. No. 146458, 20 January 2003.
- [18] People v. Austria, G.R. No. 123539, 27 July 2000.
- [19] People v. Quiamco, 335 Phil 988, 1000-1001 [1997].
- [20] People v. Musa, G.R. No. 143703, 23 November 2001.
- [21] People v. Matugas, G.R. Nos. 139698-726, 20 February 2002.
- [22] People v. Agunos, 375 Phil 315, 326 [1999].
- [23] People v. Plurad, G.R. Nos. 138361-63, 3 December 2002.
- [24] People v. Daramay, G.R. Nos. 140235 & 142748, 9 May 2002.
- [25] People v. Bertulfo, G.R. No. 143790. 7 May 2002.
- [26] People v. Supnad, G.R. Nos. 133791-94, 8 August 2001.
- [27] People v. Espejon, G.R. No. 134767, 20 February 2002.
- [28] People v. Velasquez, G.R. Nos. 142561-62, 15 February 2002.
- [29] People v. Kawasa, 327 Phil 928, 933 [1996].
- [30] People v. Yonto, G.R. Nos. 148917-18, 21 November 2002.
- [31] People v. Taperla, G.R. No. 142860, 16 January 2003.
- [32] People v. Cantomayor, G.R. No. 145522, 5 December 2002.

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.