

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. OLIVER AREVALO JR.
Y ABANILLA, AND HERMINIGILDO ORGANISTA Y ANDRES,
APPELLANTS.**

G.R. Nos. 150542-87. February 03, 2004

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Appellant is accused of multiple rape “by two or more persons,” for which Article 266-B of the Revised Penal Code prescribes the penalty of “reclusion perpetua to death.” Since the Information did not allege any aggravating circumstance, the proper penalty to be imposed is reclusion perpetua, not death.

The Case

For automatic review before this Court is the October 26, 2001 Decision[1] of the Regional Trial Court (RTC) of Makati City (Branch 62) in Criminal Case Nos. 01-419 to 01-464, finding Oliver Arevalo Jr. and Herminigildo Organista guilty beyond reasonable doubt of 42 and 32 counts of rape, respectively. The decretal portion of the Decision is worded as follows:

“WHEREFORE, premises considered, the Court finds accused Oliver A. Arevalo in Criminal Cases Nos. 01-419 to 01-423, 01-425 to 01-428, 01-430 to 01-441, 01-442 to 01-446, 01-448 to 01-451, 01-453 to 01-464, and accused Herminigildo A. Organista in Criminal Cases Nos. 01-419 to 01-422, 01-442 to 01-445, and 01-441 and 01-464 GUILTY beyond reasonable doubt of the crime of rape defined under Art. 266-A, par. 1(a) in relation to Art. 266-B, par. 2 of the Revised Penal Code, as amended by Republic Act 8353, and imposes upon them the maximum penalty of death in each case. Each of the two accused is hereby ordered to pay complainants Regina G. Acuña and Ruth F. Acosta P75,000.00 each as civil indemnity.

“Considering the outrage, humiliation, distress and trauma suffered by the two complainants from the dastardly act of the two accused, the Court orders the accused Arevalo to pay Regina Acuña and Ruth Acosta P200,000.00 each and accused Organista to pay the two complainants P50,000.00 each as moral damages pursuant to Article 2219(3) in relation to Article 2217 of the Civil Code.

“Accused Arevalo is further ordered to pay exemplary damages in the amount of P100,000.00 to each of the two complainants to deter others with perverse tendencies or aberrant sexual behaviors from committing the act.

“For failure of the prosecution to establish the guilt beyond reasonable doubt of accused Oliver A. Arevalo in Criminal Cases Nos. 01-424 and 01-447, and 01-429 and 01-452, and accused Herminigildo A. Organista in Criminal Cases Nos. 01-423 to 01-440 and 01-446 to 01-463, they are hereby ACQUITTED in said cases.”[2]

A total of forty-six (46) separate Informations[3] were filed against appellants. For the rape of Regina Acuña, they were charged as follows:

Criminal Case No. 01-419

“That on or about the 23rd day of January, 2001, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with John Does and mutually helping and aiding with one another, by means of force and intimidation, did then and there willfully, unlawfully [and] feloniously have carnal knowledge of the complainant REGINA ACU[×?]A y GUTIERREZ, without her consent and against her will.”[4]

The Informations[5] in Criminal Case Nos. 01-420 to 01-441 contain allegations identical to the above Information, differing only with respect to the dates of the commission of the alleged rapes.

For the rape of Ruth Acosta, appellants were charged as follows:

Criminal Case No. 01-442

“That on or about the 23rd day of January, 2001, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with John Does and mutually helping and aiding with one another, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant RUTH ACOSTA y FILLAS, without her consent and against her will.”[6]

Again, the Informations[7] in Criminal Case Nos. 01-443 to 01-464 contain allegations identical to the above Information, differing only with respect to the dates of the commission of the alleged rapes.

Upon their arraignment on March 19, 2001,[8] appellants, with the assistance of their counsel,[9] pleaded not guilty to all charges. After trial in due course, the court a quo rendered the assailed Decision.

The Facts

Version of the Prosecution

In its Brief, the Office of the Solicitor General (OSG) presents the prosecution’s version of the facts in the following manner:

“Regina G. Acu[ñ]a was a jobless 22-year old married woman residing in Payatas, Quezon City. On January 23, 2001, between three o’clock and four o’clock in the afternoon, she was walking down Manggahan St. in Fairview, Quezon City, looking for a job. As she went along, appellant Arevalo, a stranger, approached and asked her what her problem was. She replied that she was looking for a job. Appellant Arevalo told Regina that he could get her a job as saleslady. Regina said that if the place of work was far, she was not interested. Appellant Arevalo told her not to worry, as the workplace was not far, and that nothing wrong would happen to her. Regina did not believe him.

“While they were talking, a car stopped in front of them. Suddenly, appellant Arevalo placed a white handkerchief on Regina’s face and boarded her on the vehicle. Regina could not remember what happened next. She could not even recall whether she slept or lost consciousness. All she knew was that when she woke up, she was already lying on a bed inside a room. It was nighttime.

“In the room, Regina saw appellant Arevalo and a fat lady whom he identified as Rose, his ‘atsay’ or helper. Regina later learned that Rose’s real name was Ruth Acosta. Ruth looked like she was in a state of shock, or, ‘tulala’.

“Appellant Arevalo left momentarily. When he came back, he forcibly took off Regina’s clothes. Regina asked him what he was doing, and he replied that what he would do would only take a while. Appellant Arevalo then undressed himself. When Regina saw this, she pleaded with him to take pity on her and to release her, as her husband may have been worrying for her already. Appellant Arevalo repeated that it would not take

long. Regina shouted for help. But nobody heard her, as appellant Arevalo had closed the door and windows. While she was shouting, appellant Arevalo raised her feet and forcibly inserted his penis into her vagina.

“As Regina lay on the bed, she kept on shouting and resisting appellant Arevalo’s sexual assault. At one point, she was able to free herself from him and run. But he caught up with her, grabbed her hair, banged her head against the wall and threw her back to the bed, where he continued to ravish her. Rose, or Ruth Acosta, was looking on helplessly, crying while Regina was being violated.

“From that night onward until February 14, 2001, Regina would be wearing nothing almost all the time, for she would be ravished for what seemed like ‘almost every day and every hour.’

“On January 24, 2001, an unidentified man raped Regina in the same room. Before raping her[,] however, the man paid appellant Arevalo a sum of money. Regina could not see the man’s face, as appellant Arevalo had blindfolded her. But she heard the man tell appellant Arevalo, ‘Pare, itong bayad.’

“The unidentified man made Regina take different sexual positions even as she resisted. At one time, he inserted his penis into her anus; at another, he inserted his finger and later, his penis, into her vagina. Thereafter, appellant Arevalo made her eat the man’s penis. Regina struggled hard to free herself from the man’s clutches, but she was no match for him.

“When the man had left, appellant Arevalo took off Regina’s blindfold. Regina saw him counting the money the man had paid him. Thereafter, appellant Arevalo ravished Regina himself. When he was finished, appellant Arevalo again sold Regina to another unidentified man, who proceeded to have sex with her. By this time, Regina was no longer shouting for help because no one could hear or help her anyway.

“On January 25, 2001, appellant Arevalo again blindfolded Regina and let other men ravish her for a fee while he stood guard outside the door of his house. The first man who had sex with Regina inserted his penis into her vagina while he was on top of her, covering her mouth with his hand because she was noisy. Regina kept shouting for help, but nobody heard her. So she just cried and cried and threw punches at the man, but he would not stop ravishing her. To keep her from resisting, the man pointed a knife at her neck and threatened to kill her. When the man was through, another man followed. By then, Regina was no longer putting up any resistance because she was ‘afraid and at the same time, already very weak.’ Around six (6) men raped her in succession that day, but she could only recognize appellant Arevalo among them.

“On January 26, 2001, appellant Arevalo forced the two (2) women to take drugs. Appellant Arevalo made Regina sniff the smoke of a powdered substance or ‘tawas’ wrapped in a foil. When she refused, he threatened to slash her neck. He also made the girls take tablets which Regina later discovered to be birth control pills.

“Thereafter, appellant Arevalo inserted his penis into Regina’s vagina. While he was raping her, he ran the point of his knife up and down her body, from her breasts to her vagina. Regina was very afraid.

“After appellant Arevalo had reached a climax, he blindfolded Ruth and made her have sex with many other men.

“On January 27, 2001, appellant Arevalo ravished Regina again in a similar manner as the previous days. By then, Regina was very weak.

“On many occasions during her first five (5) days in captivity, and even thereafter, Regina tried to escape, but appellant Arevalo would always catch up with her and hurt her. He would tie up her hands and hang her while having sex with her. Whenever he left the house, he would lock it from the outside to prevent Regina and Ruth from leaving. Although appellant Arevalo would buy the girls food, Regina oftentimes refused to eat, because she knew that the food was bought with the money appellant Arevalo earned from peddling their bodies.

“On January 28, 2001, appellant Arevalo brought Regina to another place. She did not know where the place was because she was dizzy with the drugs he had made her use.

“On January 29, 2001, appellant Arevalo drugged Regina again. Thereafter, he had sexual intercourse with her. Regina begged him to let her go home because her husband was waiting for her, but her plea fell on deaf ears. Many other men ravished Regina that day.

“On January 30, 2001, appellant Arevalo forced Regina to make a choice between marijuana and ‘tawas.’ When Regina refused to choose, he threatened to slash her throat. Afraid, Regina finally chose ‘tawas.’ Appellant Arevalo told her to take it so that she would not feel the pain in her vagina, which was already bleeding. Thereafter, appellant Arevalo raped her.

“On January 31, 2001, appellant Arevalo had forcible sexual intercourse with Regina again. Thereafter, not content with putting his fingers into her private part, appellant Arevalo inserted a lighted cigarette inside. Although Regina was taking the drug appellant Arevalo forced her to use, she still felt the pain in her vagina caused by the hot cigarette.

“On February 1, 2001, after forcibly copulating with Regina yet another time, appellant Arevalo sold her again to other men.

“On the night of February 2, 2001, appellant Arevalo again moved Regina to another place which she could not remember, because she was dizzy then. Although there were other passengers on the public utility jeepney that they took on the way to the place, Regina could not ask for help, as appellant Arevalo was poking a knife at her back inside her t-shirt the whole time and had earlier warned her that he would kill her if she shouted. They arrived at a concrete house which had a vulcanizing shop at the ground floor. When they were inside the building, appellant Arevalo blindfolded Regina and hanged her by the hands. Regina heard women’s voices, but she was not sure whether they were real or came from the television set in the room. That night, Regina was again raped by unidentified persons. Appellant Arevalo and Regina left the place at half past midnight.

“From February 3 up to February 5, 2001, appellant Arevalo continued to subject [her] to his bestial designs. Each time, he succeeded in inserting his penis into her vagina and in consummating the intercourse. Regina no longer put up any resistance because her body had been rendered very weak from her days of endless ravishment.

“On February 6, 2001, Regina fell ill with fever, and Ruth took care of her. Regina’s illness did not stop appellant Arevalo from molesting her that day. Before she was raped, Regina begged appellant Arevalo to allow her to call her parents and even offered him any sum of money as he desired, but he slapped her, saying that he needed her body and not her money. He also told Ruth to slap her, and so Ruth slapped her.

“On February 7, 2001, Regina could only beg appellant Arevalo to take pity on her. She was chilling and she tried to push him away, to no avail, for once again, appellant Arevalo successfully penetrated her private organ.

“On February 8, 2001, Regina discovered that she had a venereal disease, or ‘tulo.’ But this did not spare her from appellant Arevalo’s carnal greed. She stopped resisting him, for her body had long been worn down by ceaseless abuse.

“Regina’s ordeal continued from February 9 up to February 14, 2001. Every single day, appellant Arevalo would ravish her without letup.

“On February 14, 2001, appellant Organista, a friend and neighbor of appellant Arevalo, also had a taste of Regina’s flesh. After appellant Arevalo stripped her naked, appellant Organista made his move. Regina pushed him away as he approached her, but appellant Arevalo teased him, saying, ‘kaya mo yan pre.’ Appellant Organista proceeded to insert his penis into Regina’s vagina while she lay down on the floor, with appellant Arevalo looking on. After appellant Organista was finished, appellant Arevalo took over in ravishing Regina and succeeded in penetrating her as well.

“Ruth F. Acosta, a native of Bukidnon, left her family for Manila when she was about eighteen (18) years old. Her highest educational attainment was the third grade of primary school. Unable to find any relatives in Manila, she ended up loitering and sleeping on the streets of Luneta.

“On January 23, 2001, about a year she had left the province, Ruth Acosta met appellant Oliver Arevalo at the Luneta park. It was around six o’clock in the evening. Appellant Arevalo told Ruth that he could help her find a job and invited her to go with him. Ruth went with appellant Arevalo and they boarded a jeepney. They arrived at (what turned out to be) appellant Arevalo’s house in Pembo, Makati, a few hours later.

“Upon entering the house, appellant Arevalo pushed Ruth Acosta to the bed and stripped off her clothes. Thereafter, appellant Arevalo removed his own clothes and forcibly inserted his penis into her vagina. Ruth could not recall what happened immediately thereafter, except that she felt pain in her private part. She was also bleeding badly, for she had just lost her virginity to her assailant.

“That same evening, after she was ravished by appellant Arevalo, Ruth was raped by appellant Arevalo’s friend and neighbor, herein appellant Organista, in the same room.

“The following day, January 24, 2001, appellant Arevalo raped Ruth Acosta again. He took off his clothes, undressed Ruth, and inserted his penis into her vagina, causing her to feel pain. While she was being raped, Ruth attempted to resist appellant Arevalo by ‘pulling backwards her two hands with clenched fists’, but her resistance was futile.

“On January 25, 2001, appellant Arevalo forcibly had sexual intercourse with Ruth again on his bed. He inserted his organ into her private part, and once more, she felt pain. Many other men raped Ruth in the same room that night after paying a fee to appellant Arevalo, but she could not identify said men because she was blindfolded by him. She recognized appellant Organista, though, as one of those who raped her while she was blindfolded because she was able to hold his beard while he was ravishing her and she was already familiar with his face.

“On January 26, 2001, appellants Organista and Arevalo took turns in raping Ruth. Appellant Organista removed Ruth’s clothes, after which, appellant Arevalo had forcible sexual intercourse with her. Try as she might to resist the two (2) men, she was easily overpowered by them. After appellant Arevalo was through with Ruth, he left the room. Appellant Organista then proceeded to defile her, inserting his penis into her vagina. As a result of her ravishment by the two (2) men, Ruth experienced pain whenever she urinated.

“The next day, January 27, 2001, appellant Arevalo blindfolded Ruth. Thereafter, she was raped successively by several unidentified men.

“On January 28, 2001, appellants Arevalo and Organista forced Ruth to take drugs. Next, appellant Arevalo blindfolded Ruth. Thereafter, several unidentified men raped Ruth, one after the other, in appellant Arevalo’s room. Before sexually abusing her, each of these men paid a fee to appellant Arevalo. Ruth knew this, because she would hear the men say to him, ‘Pare bayad’ or ‘Pare ito na ang pambayad.’

“On January 29, 2001, appellant Arevalo vented his carnal desire on Ruth again. After undressing Ruth, he had forcible sexual intercourse with her on his bed.

“On January 30, 2001, appellant Arevalo forced himself upon Ruth once more. While appellant Arevalo was raping her, appellant Organista, who was visiting, merely looked on and did nothing to stop his friend and neighbor. After appellant Arevalo had ejaculated, appellant Organista took over, ravishing Ruth until he, too, succeeded in discharging his semen on her. While this was going on, appellant Arevalo merely stood by, laughing.

“On January 31, 2001, appellant Arevalo sexually abused Ruth yet another time, piercing her womanhood and bringing himself to a climax. Other men followed in raping her that night in appellant Arevalo’s room, but she

could not see them because appellant Arevalo had covered her eyes.

“The following day, February 1, 2001, five (5) men raped Ruth in succession in the same room after paying a sum to appellant Arevalo. Once again, she could not see their faces because appellant Arevalo had blindfolded her.

“On February 2, 2001, appellants Arevalo and Organista took turns in raping Ruth in appellant Arevalo’s room. Ruth knew that both men had reached a climax after forcibly copulating with her, for her vagina was very wet with their semen.

“On February 3, 2001, appellant Arevalo slapped Ruth, pulled her hair, inserted his penis into her vagina and ravished her until he ejaculated. Appellant Organista followed, similarly unleashing his seminal fluid on the hapless woman upon reaching a climax, while appellant Arevalo looked on and held her down. Ruth’s ordeal did not end at this point, for she was subsequently raped by several other men after paying appellant Arevalo one hundred pesos (P100.00) each.

“On February 4, 2001, appellants Arevalo and Organista again raped Ruth in the same room. Appellant Organista had forcible sexual intercourse with Ruth until he ejaculated; he also forced her to eat his penis. Appellant Arevalo followed, inserting his penis into her private part, causing it to hurt. He also ejaculated his semen on her.

“In addition, appellant Arevalo, as with previous dates, sold Ruth to many other men that day. All of them sexually abused her after each paying appellant Arevalo one hundred pesos (P100.00).

“On February 5, 2001, appellant Arevalo once more peddled Ruth and Regina to unidentified persons who each paid him one hundred pesos (P100.00). Appellant Arevalo also forcibly copulated with the two (2) women that day. Additionally, appellant Organista ravished Ruth to the point of ejaculation while appellant Arevalo watched. Ruth could only lie helpless while she was being raped by appellants, as they were too strong for her.

“On February 6, 2001, appellants Arevalo and Organista raped Ruth again. Appellant Organista ravished Ruth first, undressing her, inserting his manhood into her as she lay on appellant Arevalo’s bed, and helping himself to an orgasm while leaving Ruth in pain. Appellant Arevalo then took over, defiling her as well. Thereafter, he blindfolded her and sold her for sex to other unidentified men.

“On February 7 and 8, 2001, appellant Arevalo repeated his ravishment of the helpless woman until he ejaculated on her.

“Thereafter, appellant Arevalo blindfolded Ruth and sold her flesh to many other men. Again, Ruth knew this, for she heard them say to him, ‘Pare bayad’ and she also heard him talking to them.

“On February 9, 2001, appellant Arevalo blindfolded the two (2) women and sold their sexual services to several men. Appellant Arevalo warned Ruth that he had already killed a man before, and she believed him; hence, she did not dare remove her blindfold because she was afraid of him.

“On February 10, 2001, appellant Arevalo forcibly consummated his lust on Ruth once more. He also let other men ravish her for a fee.

“On February 11, 2001, several men paid appellant Arevalo to have sex with the two (2) women. Appellant Arevalo himself did not spare Ruth, penetrating her maidenhood yet another time until he was satisfied.

“On February 12, 13, and 14, 2001, appellant Arevalo again peddled the women to other men for sex. Appellants Arevalo and Organista were not to be outdone, for they, too, ravished Ruth on February 12 and 13, 2001.

“On the night of February 14, 2001, after they had fulfilled their lustful designs on the two (2) women and prostituted them to other men, appellants Arevalo and Organista had a drinking spree in the former’s room. Thereafter, they fell asleep. Regina Acuñja got the key to the door from appellant Arevalo’s pocket, dragged Ruth Acosta with her, and together they escaped. Regina and Ruth then reported their horrifying ordeal to the Makati police. It was around 9:30 in the evening.

“That same evening, a team of Makati policemen and barangay tanods went to appellant Arevalo’s house accompanied by the Regina and Ruth. They knocked on the door. When appellant Arevalo opened the door, he was immediately identified by the women as their ravisher. Appellant Arevalo tried to escape, but he was quickly arrested by the police. Thereafter, the police and the two (2) women proceeded to appellant Organista’s residence which appellant Arevalo had readily pinpointed to them. The police knocked on the door and appellant Organista opened it. Again, the two (2) women quickly identified him as their other rapist. The moment he saw the policemen and the women, appellant Organista also tried to escape, but the police immediately apprehended him.

“The following day, the private complainants were physically examined by Dr. Miriam S. Guialani, the deputy chief of the Women’s Crisis and Child Protection Center of the Philippine National Police (PNP) in Camp Crame, Quezon City.

“Dr. Guialani found infected erosions or abrasions at the 8 and 9 o’clock positions in the labial fold of Regina’s external genitalia, most likely caused by constant friction. She also noted hematoma, infection and fresh lacerations in the hymen at the 2 and 4 o’clock positions. In addition, the hymen was very very red and swollen, indicating that it had been subjected to force and violence. There was also a foul-smelling yellowish vaginal discharge strongly indicative of a sexually transmitted disease. On the whole, Dr. Guialani noted that the ‘genital findings show clear evidence of previous penetrating trauma.’

“On the other hand, Dr. Guialani found healed lacerations at the 4, 7 and 8 o’clock positions in Ruth’s hymen. She also noted edema and swelling at the hymenal rim and its mucosal tissues. Dr. Guialani similarly reported that Ruth’s ‘genital findings show clear evidence of previous trauma.’”[10] (Citations omitted)

Version of the Defense

On the other hand, the defense presented the following version of the facts:

“OLIVER AREVALO testified that since December 27, 2000, he was in Ormoc, Leyte with his wife and two (2) children. On February 10, 2001, he went back to Manila to borrow money from his brother Tony to put up a sari-sari store but he was asked by his brother’s secretary to come back on February 13, 2001 so he went back to his brother’s house but his brother referred him to their elder brother at Project 6, Quezon City. He was only given P500.00. At around 4:00 o’clock p.m., he proceeded to Luneta where policemen were arresting vagrants at that time. The two (2) women, Ruth and Apple, referring to complainants Acosta and Acuñja, were arrested. He helped them by giving them food and clothing. They went with him to Makati and arrived at their house at around 11:30 p.m. The next day, February 12, 2001, the two (2) women were hungry again and Acosta was asking for transportation fare. He brought them to Organista’s house and the latter gave P10.00 to Acosta. The two (2) women left at around 1:30 in the afternoon. He had a drinking spree with Organista at his house. At around 1:00 in the morning, he saw policemen together with the two (2) women and one of the policemen boxed him, so he pointed Organista’s house to them.

“HERMINIGILDO ORGANISTA could not remember where he was from January 23, to 26, 2001 because he was treated with ECI for about five (5) times at the National Mental Health Hospital since 1983. He claimed that said treatment has the tendency of weakening or affecting one’s memory. He corroborated the testimony of accused Arevalo that he only gave P10.00 for the food of Acosta.

“AVELINA ORGANISTA testified that her son was treated at the National Mental Health in 1983. His last

examination was in 1997. After said examination, her son could no longer work because they have to bind him because he was uncontrollable. He even threatened her that he would kill her when she opposed what he was doing. On the dates of the alleged rapes, her son was at home with her.

“DR. PIA ALMA DE JESUS of the National Center for Mental Health testified that she first saw accused Organista for treatment on April 11, 2001. She learned from the hospital records that said accused had been mentally ill since 1982 or 1983 and had 23 admissions at the mental hospital. During his last admission, he was given oral medication to control his psychotic symptoms like illusions and hallucination. Failure to regularly take said medication could cause a relapse that would render him [unfit] for trial.

“JESUS OCAMPO, driver and all around helper of accused Arevalo’s brother, Tony, testified that he usually see Arevalo on Tuesdays as the latter used to ask money from Tony.”[11] (Citations omitted)

Ruling of the Trial Court

The RTC found Arevalo and Organista guilty beyond reasonable doubt of 42 and 32 counts of rape, respectively — committed from January 23, 2001 to February 14, 2001.

The positive and straightforward testimonies of the victims, corroborated by medical reports, sufficiently proved the guilt of appellants. Having closely observed the demeanor of the victims during trial, the lower court found them credible. It found evidence that they had suffered extreme trauma, pain, humiliation and distress. It held that there was no ill motivation on their part to impute such serious offenses to appellants.

The RTC found many inconsistencies in the defenses of denial and alibi resorted to by Arevalo. First, he could not state with certainty whether he and his family had left for Ormoc City or for Valencia, Leyte, when the rapes were committed. He failed to present bus tickets to support his claim, notwithstanding his manifestation during the trial that he would present them before the court. Second, the trial court was puzzled by his testimony that, because his brother came home early from work on Tuesdays, on those days he had to go to the latter’s house, which served as both office and residence. Third, on cross-examination, the brother’s helper contradicted Arevalo by testifying that the former had not seen the latter in the house on February 10, 2001, the date on which one of the rapes had supposedly taken place. Fourth, the residence of the brother of Arevalo turned out to be located in Project 2, Quezon City, not in Project 3 as the latter repeatedly testified to.

The defense of insanity proffered by Organista likewise failed to convince the trial court. He presented his mother who testified that he was not of sound mind, and that he had never left her side ever since he was a young boy. He contradicted her, however, when he declared on the stand that he was an electrician and a mason by vocation. According to him, during the period 1999 to March 2001 when he engaged in his vocation, he never received any complaints on his behavior from the people he constantly worked or associated with.

Although Organista was indeed confined at the National Center for Mental Health, the period of his confinement did not include the period of the commission of the rapes, as he was last discharged from the Center in 1997. Moreover, he failed to prove his claimed insanity during or near the time of the commission thereof.

On the contrary, when the arresting policemen, together with the victims, proceeded to his house, Organista tried to escape. His reaction was indicative of guilt and awareness of the wrong he had inflicted on the victims.

Hence, this automatic review before us.[12]

The Issues

Appellants raise the following errors for our consideration:

I

“The lower court erred in not appreciating the exempting circumstance of insanity interposed by Accused-appellant Herminigildo Organista despite strong and convincing evidence presented to prove the same.

II

“The lower court erred in finding that conspiracy existed between the Accused-appellants.

III

“The lower court erred in imposing upon x x x Accused-appellant Herminigildo Organista the supreme penalty of death notwithstanding the presence of a mitigating circumstance.

IV

“The lower court erred in imposing the supreme penalty of death upon Accused-appellants on the assumption that they are guilty of the crime charged.”[13]

Simply put, appellants’ arguments hinge on the following: (1) the trial court failed to appreciate Organista’s defense of insanity; (2) no conspiracy existed between appellants; and (3) they should have been found guilty of simple, not qualified, rape.

For clarity, we shall discuss in reverse order the issues raised by appellants.

The Court’s Ruling

Appellants are guilty of simple, not qualified, rape; hence, the penalty for each count should be reduced from death to reclusion perpetua.

First Issue:

Proper Crime and Penalty

Appellants maintain that the evidence of the prosecution is weak, and that their defense of alibi and denial should have entitled them to an acquittal. Organista adds that, assuming they were guilty, he should have been entitled to the mitigating circumstance of illness that diminishes an offender’s exercise of will power, pursuant to Article 13(9)[14] of the Revised Penal Code.

In addition, appellants contend that the Informations did not allege with specificity that two persons had raped the victims. Therefore, they argue, the rapes should not have been qualified and they should not have been sentenced to death, which is the higher penalty provided under Article 266-B of the Revised Penal Code. Accordingly, the penalty for each conviction of rape should have been reclusion perpetua.

The contentions of appellants are partly meritorious. While their respective defenses of denial, alibi and insanity must fail, we find them guilty only of simple, not qualified, rape.

Alibi and Denial

The positive, consistent and straightforward testimonies of the victims sufficiently established appellants’ culpability. Well-settled is the rule that denial and alibi, being weak defenses, cannot overcome the positive testimonies of the offended parties.[15]

In order to merit credibility, denial must be buttressed by strong evidence of non-culpability,[16] which herein

appellants failed to show. And in order for alibi to prosper, the accused must prove not only that they were at some other place at the time of the commission of the crime, but also that it was physically impossible for them to be at the locus delicti or its immediate vicinity.[17]

In the present case, appellants failed to demonstrate this fact. Without presenting any evidence to support his bare assertion,[18] Arevalo merely testified that he was in Ormoc, Leyte, from December 27, 2000, to February 10, 2001. He said that the bus ticket evidencing his trip to Leyte on December 27, 2000, was with his wife, while the return ticket to Manila on February 10, 2001, was with his brother. To corroborate his testimony, he manifested that he would present the tickets in court after retrieving them,[19] but he failed to do so.

On the other hand, the mother of Organista averred that her son had stayed with her during the entire period of the commission of the rapes. But since their house was near Arevalo's, or the place where the rapes were committed, then it would not have been unlikely for him to be in the vicinity at the time of the rapes.

The victims' testimonies, corroborated by the results of the medical examination, convincingly proved that appellants were the perpetrators. It is a time-tested rule that the evaluation of the credibility of witnesses and their testimonies is best undertaken by the trial court, because it had the opportunity to observe them firsthand and to note their demeanor and conduct on the witness stand.[20] For this reason, its findings on such matters, absent any arbitrariness or oversight of facts or circumstances of weight and substance, are final and conclusive upon this Court.[21] It is likewise well-settled that when a woman declares that she has been raped, she says in effect all that is necessary to show that rape has been committed; and when her testimony passes the test of credibility, the accused can be convicted on the basis thereof.[22]

On the rapes committed against her on January 23 and 24, 2001, Acuña testified as follows:

“Q: You said you were raped on January 23, 2001 and it was Oliver Arevalo who raped you. Will you kindly tell the Honorable Court how this was done?

A: During that night when Oliver came back, he forcibly took off my clothes including my short pants.

Q: And after Oliver took off your clothes and short pants, what else did he do, if he did anything?

A: I asked him ‘Kuya, what will you do? Why are you taking off my clothes?’

x x x x x x x x

Q: After that, what did he do when you shouted for help?

A: He approached me and he forcibly raised my feet and inserted his penis into my vagina. I shouted, pleaded for help.

Q: Was Oliver successful in having his penis penetrate your female organ?

A: Yes, sir. x x x.

x x x x x x x x

Q: So do you recall how long you were raped by Oliver?

A: It started January 23 up to February 14, 2001, sir.

Q: And where did these other sexual assaults after January 23, 2001 meaning January 23, 24, 25, 26, 27, 28, 29, 30, 31, February 1 up to Feb[ruary] 14, 2001 happened?

A: In the house of Oliver.

x x x x x x x x

Q: At noon, ikaw ay walang damit mula ulo hanggang paa?

A: Opo.

Q: Iyon din ang gumahasa sa iyo?

A: Si Oliver po.

Q: Paano mo nalaman, nakapiring ka?

A: Noong tina[n]ggalan niya ako ng piring ay si Oliver naman po ang sumunod.

Court:

Q: Ang ibig mong sabihin ay matapos yung ibang tao na gahasain ka ay sumunod naman si Oliver noong January 24?

A: Opo.”[23]

On the rapes that occurred from January 25 to 27, 2001, she testified thus:

“Q: So on January 25, 2001, you are saying that it was not Oliver Arevalo who raped you but somebody else only that person whom you could not identify gave payment to Oliver to have sexual intercourse with you? Is that what you are saying?

A: Yes, sir. But after that person, he was the one who would follow in raping me, sir.

x x x x x x x x

Q: Who sexually assaulted you on January 26, 2001?

A: Oliver Arevalo, sir.

INTERPRETER:

Witness pointing to accused Oliver Arevalo.

FISCAL NAÑOLA:

Q: And how did he sexually assault you on January 26, 2001?

A: I was naked at that time and he was poking the knife on me.

INTERPRETER:

Witness demonstrating pointing from her breast down to her private part.

FISCAL NAÑOLA:

Q: At that time that Oliver Arevalo, Jr. was poking a knife from your breast down to your private organ, were you wearing anything?

A: None, sir.

Q: So what else happened after that poking of a bladed weapon?

A: After that, he raped me.

Q: When you said [he] raped you, you mean he inserted his penis into your female organ?

A: Yes, sir.

Q: And was he able to reach climax? Meaning, was he able to complete the copulation?

A: Yes, sir.

x x x x x x x x

Q: Let's go now to the incident on January 27, 2001 which is the 5th day. Tell us, was any rape committed on you on January 27, 2001?

A: Yes, sir, everyday. I do not know what's happening already because 'patang-pata na ang katawan ko.'

Q: And could you recall if Oliver Arevalo, Jr. raped you on January 27, 2001, the 5th day of your being in his house?

A: Yes, sir.

Q: And could you recall how did this happen?

A: I could recall that everyday he was raping me.

Q: At what time was this rape being committed?

A: I do not know because from what I could recall, everytime somebody would use me, he would follow.

x x x x x x x x

Q: So you are positively certain that on January 27, 2001, the 5th day of your being in the house of Oliver Arevalo that accused Oliver Arevalo raped you?

A: Yes, sir.”[24]

On the rapes from January 29 to February 14, 2001, she narrated the events as follows:

“Q: Mrs. Witness, you stopped last time on the date January 29, 2001 which is the 7th day of your being in the house of accused Oliver Arevalo, Jr., the question is, please tell the Honorable Court what happened to you on January 29, 2001 in the house of Oliver Arevalo, Jr. in Makati City?

A: Oliver Arevalo forced me to take drugs and then he used me, they were plenty, sir.

Q: And when you said you were used, are you referring [to] being abused sexually?

A: Yes, sir.

Q: Was Oliver Arevalo successful in having sexual intercourse with you?

A: Yes, sir.

x x x x x x x x

Q: And was Oliver Arevalo successful in having sexual intercourse with you on January 30, 2001?

A: Yes, sir.

Q: Did he finish having sexual intercourse with you?

A: Yes, sir.

Q: Let’s now go to January 31, 2001. Now, what happened to you on January 31, 2001?

A: He also used me during that day, sir, x x x.

x x x x x x x x

Q: Let's now go to February 1, 2001, what happened to you on February 1, 2001?

A: He again raped me and then sold me again to other male persons.

Q: And was Oliver Arevalo, Jr. successful in having sexual intercourse with you on February 1, 2001?

A: Yes, sir.

Q: And did he finish?

A: Yes, sir.

x x x x x x x x

Q: What happened to you on February 3 at the house of Oliver Arevalo in Makati City?

A: I was also raped, sir, by Oliver Arevalo.

Q: Was he successful in raping you?

A: Yes, sir.

Q: Did he finish?

A: Yes, sir.

Q: What were you wearing at the time you [were] being raped?

A: None, sir, nothing.

A: Nothing also, sir.

Q: Were you lying down when you were being raped?

A: Yes, sir.

Q: Did you resist him when you were being raped?

A: I did not resist him already, sir, because I was 'patampata na po ang katawan ko.'

Q: How about on February 4, 2001, what happened to you?

A: Also the same, sir, I am not resisting already I am just crying.

Q: Were you raped on February 4, 2001?

A: Yes, sir.

Q: How about Oliver Arevalo, what was he wearing?

A: Nothing also, sir.

Q: Did he finish?

A: Yes, sir.

Q: On February 5, 2001, what happened to you?

A: The same with February 4, sir.

Q: Meaning, Oliver Arevalo raped you also?

A: Yes, sir.

Q: What were you wearing at the time that you [were] being raped?

A: Nothing also, sir.

Q: How about Oliver Arevalo, what was he wearing?

A: Nothing also, sir.

Q: Did he finish and fulfilled raping you on February 5, 2001?

A: Yes, sir.

Q: Meaning he was able to insert and penetrate his penis to your private parts, is that what you mean?

A: Yes, sir.

Q: On February 6, 2001, what happened to you, Mrs. Witness?

A: I was sick last February 6, sir.

Q: February 6, you got sick. Do you recall what illness or sickness is this?

A: I had fever during that time and it was Rose who was taking care of me.

Q: Were you raped on February 6, 2001?

A: Yes, sir.

Q: Who raped you?

A: Oliver, sir.

Q: What were you wearing when you [were] raped?

A: Nothing, sir.

Q: What about Oliver Arevalo, what was he wearing?

A: Nothing also, sir.

Q: Before you were raped, did you tell him that you were sick?

A: No, sir.

x x x x x x x x

Q: How about on February 7, 2001, what happened to you?

A: I was also raped by Oliver.

Q: Was he successful?

A: Yes, sir.

Q: Did he finish?

A: Yes, sir.

Q: What were you wearing at the time that he raped you?

A: Nothing, sir.

Q: How about Oliver Arevalo, what was he wearing?

A: Nothing also, sir.

Q: What position were you at the time that you [were] being raped, were you lying down?

A: Lying down, sir.

Q: On the floor or on the bed?

A: On the bed, sir.

Q: Did you resist him on February 7, 2001?

A: Yes, sir.

Q: What did you do to him on February 7, 2001?

A: I told him to pity me 'parang awa mo na.'

INTERPRETER:

Witness demonstrating that she was chilling and she was pushing the accused.

FISCAL NAÑOLA:

Q: Were you successful in pushing him?

A: No, sir.

Q: And Oliver Arevalo was able to have his penis penetrate your private parts?

A: Yes, sir.

Q: How about on February 8, 2001, what happened to you?

A: I had a disease, sir, 'tulo.'

Q: Aside from having that vaginal disease on February 8, 2001, what else if any happened to you if you recall?

A: I was used again by Oliver, sir.

Q: Did he finish?

A: Yes, sir.

Q: What were you wearing at the time that he raped you?

A: Nothing, sir.

Q: How about Oliver Arevalo, what was he wearing?

A: Nothing also, sir.

Q: Did you resist him?

A: No, sir.

Q: Why, why not?

A: 'Patampata na po ang katawan ko nanghihina na po ako.'

Q: How about on February 9, 2001, what happened to you if any did happen to you?

A: Also like that, sir, up to February 14, I was being raped everyday.

Q: So, from words you are saying the remaining days February 9 to February 14 you were not allowed to leave the house of Oliver Arevalo, Jr.?

A: Yes, sir.

Q: And during those days aside from you and Rose, were there any other person who were able to enter that house?

A: Yes, sir.

Q: Who?

COURT:

Witness pointing to a man also in yellow shirt and when asked he identified himself as Herminigildo Organista.

FISCAL NAÑOLA:

Q: Could you recall, Mrs. Witness, on what date did Herminigildo Organista enter the house of Oliver Arevalo, Jr. in Makati City?

A: On February 14, sir.

Q: Do you know that February 14 is Valentine's Day?

A: Yes, sir.

Q: So what happened to you on February 14, 2001 in the house of Oliver Arevalo, Jr. [on] Valentine's Day?

A: I was raped by two (2) persons, Oliver and Herminigildo.

x x x x x x x x

Q: Who first raped you on February 14, 2001, Valentine's Day?

A: Herminigildo, sir.

Q: He was the first one?

A: Yes, sir.

Q: Who were present if any when he raped you?

A: Oliver Arevalo, sir.

Q: The two (2) of them were there?

A: Yes, sir.

Q: And how did Herminigildo Organista raped you on February 14, 2001?

A: He inserted his private parts to my vagina, sir.

Q: Before that, did you resist him?

A: Yes, sir.

Q: How did you resist Herminigildo Organista?

A: I pushed him, sir.

Q: Were you successful in pushing him?

A: Yes, sir.

Q: And after pushing him, what happened next if anything else happened?

A: Oliver said kaya mo yan pre, then what he did was he inserted his private parts to my private parts, sir.

Q: Now tell us, what were you wearing at the time that Herminigildo Organista inserted his penis to your private parts?

A: Nothing, sir.

Q: Who removed your clothing before Herminigildo Organista was able to have his penis x x x insert[ed] to your private parts?

A: Oliver Arevalo, sir.

Q: Oliver Arevalo removed your clothing?

A: Yes, sir.

Q: Were you wearing bra and panty at that time before you [were] raped?

A: None, sir.

Q: Only your clothes?

A: Yes, sir.

Q: What kind of clothes is this, duster or pants and blouse?

A: T-shirt only, sir.

Q: How about your lower portion, what were you wearing?

A: Nothing, sir.

Q: Only T-shirt?

A: Yes, sir.

Q: And after Oliver Arevalo, Jr. removed your T-shirt, what happened to you?

A: I was raped by Herminigildo Organista.

Q: In what position were you at the time that you [were] being raped by Herminigildo Organista?

A: Lying down on the floor, sir.

Q: Not on the bed?

A: Yes, sir.

Q: Was Herminigildo Organista successful in having you raped on February 14, 2001?

A: Yes, sir.

Q: Did he finish?

A: Yes, sir.

Q: At the time that you [were] being raped, were you blindfolded?

A: No, sir.

Q: How about Oliver Arevalo, where was he at the time that you [were] being raped by Herminigildo Organista?

A: At the bed, sir.

Q: And what was he doing?

A: He [was] just looking, sir.

Q: Looking at the both of you?

A: Yes, sir.

Q: And he did not do anything to prevent Herminigildo Organista from completing and successfully penetrating his penis to your private parts?

A: Nothing, sir.

Q: So, after Herminigildo Organista finished and successfully completed having intercourse with you, what else happened if anything happened on February 14, 2001?

A: It was followed by Oliver Arevalo, Jr.

Q: Was he successful in having you raped on February 14, 2001?

A: Yes, sir.

Q: Was his penis able to penetrate your private parts?

A: Yes, sir.”[25]

On the other hand, on the rapes committed against her from January 23 to February 13, 2001, Acosta testified as follows:

“COURT:

Sabihin mo nga sa hukuman kung papano ka o bakit nandoon sa bahay ni Oliver nuong 23 ng Enero taong kasalukuyan?

A Naglalakad po ako sa Luneta nakasalubong ko siya. Ang sabi po niya sa akin ipapasok niya ako sa trabaho.

Q Ano ang sumunod na pangyayari ng sabihin sa iyo ni Oliver na ipapasok ka niya ng trabaho samantalang ikaw ay nasa Luneta?

A Ihahanap daw po niya ako ng trabaho.

Q Proceed.

FISCAL NAÑOLA:

Q Nung sabihin niya sa iyo na ihahanap ka niya ng trabaho, ano pa ang sumunod na pangyayari?

A Sinakay po niya ako sa jeep.

Q Nung nakasakay na kayo sa jeep, saan kayo nagtungo? Saan kayo pumunta?

A Sa bahay po ni Oliver.

Q Sabihin mo sa [kagalang-galang] na Hukom kung alam mo kung saan yung bahay ni Oliver.

A Sa Makati, Cembo.

Q Nung dumating kayo sa bahay ni Oliver doon sa Makati, ano ang nangyari kung meron man?

A Tinulak po ako sa kama.

COURT:

Q Anong oras ka dumating sa bahay ni Oliver?

A Hindi ko na po maalala.

Q Maari mo bang sabihin kung gabi o araw?

A Gabi, po.

Q Ikaw ba nung makasalubong mo si Oliver sa Luneta ay gabi rin?

A Opo.

Q Proceed.

FISCAL NAÑOLA:

Q Pagkatapos kang itulak ni Oliver sa kama, ano pa ang sumunod na nangyari kung meron pa?

A Hinubad po yung t-shirt ko, shorts, panty at bra.

Q Ikaw ba'y lumaban sa kanya habang hinuhubad ang iyong shorts, panty at bra?

A Malakas po siya.

Q Ano pa ang sumunod na pangyayari matapos kang hubaran ni Oliver ng iyong shorts, panty at bra?

A Pinasok po niya yung titi niya sa ano ko.

Q Yung sinasabi mong ano mo, ito ba yung iyong ari?

A Opo.

Q At matapos ipasok ni Oliver ang kanyang titi sa iyong ari, ano pa ang sumunod na nangyari?

A Hindi ko po matandaan.

Q Ano ang iyong naramdaman nung ipinasok ni Oliver ang kanyang titi sa iyong ari?

A Masakit, po.

Q Si Oliver naman, naaalala mo pa ba kung ano ang suot ni Oliver, kung meron man nuong pinagsasamantalahan ka niya?

A Wala po.

Q Ibig mong sabihin siya ay hubo at hubad?

A Opo.

Q Pagkatapos nitong Enero 23 taong kasalukuyan 2001, meron pa bang ibang pagkakataon na ikaw ay ginahasa ni Oliver?

A Opo.

Q Ilang beses kung natatandaan mo?

A Maraming beses, po.

Q Pagkatapos nitong Enero 23 taong kasalukuyan, kinabukasan January 24, 2001, masasabi mo ba sa kagalang-galang na Hukom kung nanatili ka roon sa bahay ni Oliver?

A Opo.

Q Puede bang sabihin mo sa kagalang-galang na Hukom kung mayroong nangyari sa iyo kinabukasan January 24, 2001?

A Opo.

Q Ano ang nangyari sa iyo?

A Ni-rape po ako.

Q Nino?

A Oliver po.

Q Itong Oliver na sinasabi mo, ito rin ba yung Oliver na itinuro mo kanina?

A Opo.

Q Nung ni-rape ka ni Oliver sino ang nandoon sa bahay niya kung natatandaan mo?

A Wala po.

Q Kilala mo ba itong isang taong nagngangalang Herminigildo Organista?

A Opo.

Q Kung narito siya sa loob, puede bang ituro mo siya?

A (Witness pointing to accused Organista.)

Q Itong si Herminigildo Organista, naroon ba sa bahay ni Oliver nang dumating ka noong January 23, 2001?

A Opo.

Q May kinalaman ba siya, kung meron man, sa ginawang panggagahasa sa iyo ni Oliver nuong January 23, 2001?

A Ni-rape rin po niya ako.

Q Kailan?

A Nuon pong January 23.

Q Sinong naunang mang-rape sa iyo, si Oliver o si Herminigildo noong January 23, 2001?

A Si Oliver po.

Q Pagkatapos ni Oliver sinong sumunod?

A Si Lito po.

Q Itong sinasabi mong Lito, nandirito ba sa loob ng hukuman?

A Opo.

Q Puede bang ituro mo yung sinasabi mong taong nang-rape sa iyo na ang ngalan ay Lito?

A (Witness pointing to accused Herminigildo Organista again.)

Q Ibig mong sabihin ay dalawang beses kang ginahasa nuong January 23, 2001. Una ni Oliver Arevalo at pangalawa Herminigildo Organista, tama ba yon?

A Opo.

Q Sinabi mo rin na nung sumunod na araw January 24, ginahasa ka rin ni Oliver, tama ba?

A Opo.

x x x x x x x x

Q Pagkatapos nuong January 24, 2001, meron pa bang nangyari kung meron man nuong January 25?

A Opo.

Q Sabihin mo sa kagalang-galang na Hukom kung ano ang nangyari sa iyo?

A Ni-rape po niya ako.

Q Sinong nang-rape sa iyo?

A Si Lito po.

Q Ito rin yung Litong itinuro mo kanina?

A Opo.

COURT:

Q Paano mo nalaman na Lito ang palayaw niya?

A Nung nahuli na po sila.

Q Continue.

FISCAL NAÑOLA:

Q Pero ang mukha niya natatandaan mo?

A Opo may balbas po siya.

Q Nung ni-rape ka ni Lito o ni Herminigildo Organista nuong January 25, 2001, meron bang ibang tao doon sa bahay?

A Meron po.

Q Sabihin mo sa Hukom kung sino?

A Hindi ko po kilala kasi po nakapiring ang mga mata ko.

Q Papaano mo nasabi na si Lito ang gumahasa sa iyo kung nakapiring ang mga mata mo?

A May balbas po siya.

Q Nakita mo ba siya nitong January 25, 2001?

A Nahawakan ko lang po ang balbas niya.

Q Oo nahawakan mo nga pero nakita mo ba siya nuong January 25, 2001, itong sinasabi mong Lito?

A Opo.

Q Bukod kay Lito meron pa bang gumahasa sa iyo nuong January 25, 2001?

A Binebenta po kami.

Q Si Oliver Arevalo, Jr., ginahasa ka rin ba niya nuong January 25, 2001?

A Opo.

Q Sinong nauna, si Lito o Herminigildo Organista o si Oliver Arevalo?

A Si Oliver po.

Q At ang sumunod si Lito o si Herminigildo Organista?

A Opo.

Q Nung sinabi mong si Oliver ang naunang nanggahasa, nagtagumpay ba siya sa kanyang panggagahasa?

A Opo.

Q Anong naramdaman mo nuong ginagahasa ka ni Oliver?

A Masakit po ang ari ko.

Q Nasaan ka nung ginagahasa ka niya, sa kama ba o nasa sahig?

A Nasa kama po.

Q Ilan kayo sa kama nung ginagahasa ka ni Oliver?

A Isa po.

Q Ibig mong sabihin ikaw lang at si Oliver?

A Opo.

Q Nung sumunod na araw January 26, puede bang sabihin mo sa kagalang-galang na Hukom kung may nangyari sa iyo?

A Opo.

Q Anong nangyari sa iyo?

A Ni-rape po.

Q Sinong nang-rape sa iyo?

A Si Oliver po.

Q Bukod kay Oliver, bukod sa pangre-rape ni Oliver, meron pa bang nangyari sa iyo?

A Opo.

Q Ano yon, pakisabi mo sa hukuman?

A Si Lito po.

Q Anong ginawa niya sa iyo?

A Rape din po.

Q Ikaw ba'y nakahubad noon nang ni-rape ka ni Oliver?

A Opo.

Q Sino ang naghubad sa iyo?

A Si Lito po.

Q Matapos kang hubaran ni Lito ni-rape ka ni Oliver, yon ba ang ibig mong sabihin?

A Opo.

Q Ikaw ba ay lumaban kay Lito o kay Oliver?

A Malakas po silang dalawa.

Q Matapos kang gahasain ni Oliver sino ang sumunod?

A Si Lito po.

Q Nagtagumpay ba si Lito sa panggagahasa sa iyo?

A Opo.

Q Ibig mong sabihin naipasok niya ang ari niya sa ari mo ganoon ba?

A Opo.

Q Ano ang naramdaman mo nung ipasok ang ari niya sa ari mo?

A Masakit po ang pag-ihi ko.

x x x x x x x x

Q Nuong January 29, may naaalala ka ba kung may nangyari sa iyo?

A Rape din po.

Q Sino ang nang-rape sa iyo nung January 29, 2001?

A Oliver po.

Q Bukod kay Oliver meron pa bang ibang nang-rape sa iyo nuong January 29?

A Hindi ko po nakilala.

Q Nagtagumpay ba si Oliver sa panggagahasa sa iyo nung January 29?

A Opo.

Q Ikaw ba'y hubad nung nangyari yon?

A Opo.

Q Sino ang naghubad ng iyong damit nuong January 29?

A Si Oliver po.

Q Nung ginahasa ka ni Oliver nung January 29, ano naman ang suot mo, kung meron man?

A Wala po.

Q Sino ang nag-alis ng iyong kasuotan nung January 29?

A Si Oliver po.

Q Lumaban ka ba kay Oliver nung ginagahasa ka niya nung January 29?

A Malakas po siya.

Q Bukod kay Oliver meron pa bang ibang gumahasa sa iyo nung January 29?

A Hindi ko po kilala kasi may takip po ang mga mata ko.

Q Ang nakilala mo lang ay si Oliver?

A Opo.

Q Saan ka ginahasa ni Oliver, sa sahig ba, sa kama o saan?

A Sa kama po.

Q Dumako tayo sa January 30. Natatandaan mo ba kung may gumahasa sa iyo nuong January 30?

A Opo.

Q Sabihin mo nga sa kagalang-galang na Hukom kung ano nangyari sa iyo nuong January 30, 2001?

A Rape po.

Q Sino ang nang-rape sa iyo?

A Oliver po.

Q Sino pa bukod kay Oliver, kung meron man?

A Si Lito po.

Q Sino ang naunang nang-rape sa iyo nung January 30, si Lito o si Oliver?

A Si Oliver po.

Q Nung nire-rape ka ni Oliver nung January 30, natatandaan mo ba kung nasaan si Lito?

A Opo.

Q Nasaan siya?

A Pumunta po siya sa bahay ni Oliver?

Q Habang nire-rape ka ni Oliver sa kama, nasaan si Lito?

A Nanonood po.

Q Bakit mo nasabing nanonood siya, nakita mo ba siya?

A Opo.

Q Pinigilan ba niya si Oliver habang ginagahasa ka niya?

A Hindi po.

Q Ikaw, hinawakan ka ba ni Lito habang nire-rape ka ni Oliver?

A Opo.

Q Saan ka hinawakan ni Lito habang ginagahasa ka ni Oliver?

A Sa kamay po.

Q Ilang kamay ang hinawakan sa iyo ni Lito?

A Dalawa po.

Q At nakatapos ba si Oliver ng panggagahasa sa iyo nung January 30?

A Opo.

Q Papano mo nasabing nakatapos si Oliver?

A Basa na po.

Q Alin ang basa na?

A Ang ari ko po.

Q Matapos kang gahasain ni Oliver at naramdaman mong basa na ang ari mo, ang sumunod namang gumahasa sa iyo ay si Lito, ganon ba?

A Opo.

Q Nagtagumpay ba si Lito sa panggagahasa sa iyo?

A Opo.

Q Nakatapos ba siya?

A Opo.

Q Papano mo nalaman na nakatapos si Lito ng panggagahasa sa iyo?

A Nilabasan din po.

Q Si Lito?

A Opo.

Q Habang ginagahasa ka ni Lito nandon din ba si Oliver?

A Opo.

Q Anong ginawa sa iyo ni Oliver habang ginagahasa ka ni Lito?

A Tumatawa po.

Q Bukod sa tumatawa si Oliver habang ginagahasa ka ni Lito, hinawakan ka ba niya sa kamay o sa ibang bahagi ng iyong katawan kung natatandaan mo?

A Kamay po at paa.

Q Hinawakan ni Oliver?

A Opo.

Q Matapos kang gahasain ni Lito nong January 30, 2001, natatandaan mo ba kung may nangyari sa iyo nung sumunod na araw nung January 31, 2001?

A Opo.

Q Ano ang nangyari sa iyo nung January 31, 2001?

A Rape din po.

Q Sinong nang-rape sa iyo?

A Oliver po.

Q Nagtagumpay ba siya sa panggagahasa sa iyo nung January 31, 2001?

A Opo.

Q Nakatapos ba siya?

A Opo.

Q Papano mo nasabi na natapos si Oliver ng panggagahasa sa iyo?

A Basa na po ang ari ko.

Q Bukod kay Oliver Arevalo, meron pa bang nanggahasa sa iyo nung January 31, 2001?

A Opo.

Q Sino ang nanggagahasa sa iyo bukod kay Oliver?

A Hindi ko po makilala kasi may takip ang mga mata ko.

Q So ang natatandaan mo lang ay si Oliver?

A Opo.

Q Nung sinabi mong nagtagumpay at natapos si Oliver sa panggagahasa sa iyo, puede bang sabihin mo sa Hukom kung ang ari niya ay naipasok niya sa ari mo?

A Opo.

Q Naramdaman mo ba nang ipasok ni Oliver yung ari niya sa ari mo?

A Opo.

Q Itinulak mo ba siya habang ginagahasa ka niya?

A Malakas po siya.

Q Hindi mo siya naitulak?

A Hindi po.

Q Meron ka bang damit noon o hubo't hubad ka habang ginagahasa ka nung January 31, 2001.

A Wala na po.

Q Sinong nag-alis sa iyo ng damit mo nung January 31, 2001?

A Si Oliver po.

Q Si Oliver naman ano ang damit niya, siya ba ay may damit o wala nung January 31, 2001.

A Wala po.

Q So ibig mong sabihin ikaw at si Oliver ay parehong hubo't hubad nung ginagahasa ka niya[?]

A Opo.

Q Saan ka niya ginahasa, sa kama ba o sa sahig, o sa anong lugar ng bahay?

A Sa kama po.

x x x x x x x x

Q Sino ang nanggahasa sa iyo noong February 2, 2001?

A Si Oliver at si Lito po.

Q Nagtagumpay ba si Oliver ng panggagahasa sa iyo?

A Opo kaming dalawa po ni Regina.

Q Matapos kang gahasain ni Oliver, at nagtagumpay siya, sino pa ang gumahasa sa iyo, kung meron man?

A Hindi ko po kilala kasi may takip ang mga mata ko.

Q Natatandaan mo ba kung nandoon si Herminigildo Organista noong February 2, 2001, habang ginagahasa ka ni Oliver Arevalo?

A Opo.

Q Anong ginagawa niya habang ginagahasa ka ni Oliver?

A Wala po.

Q Nanonood siya?

A Opo.

Q Hinawakan ba niya ang kamay mo o paa, ni Herminigildo?

A Opo.

Q Noong February 2, 2001?

A Opo.

Q Meron ka ba noong piring o takip sa mata?

A Opo.

Q Papano mo nalaman na hinawakan ang kamay mo o paa ni Herminigildo gayong may takip ang iyong mga mata?

A Naramdaman ko po.

Q Ikaw ba'y may suot na damit habang ginagahasa ka ni Oliver nung February 2, 2001?

A Wala po.

Q Sinong nag-alis ng damit mo?

A Si Oliver po.

Q Lumaban ka ba sa kanya habang inalisan ka ng damit?

A Malakas po siya.

Q Ano naman ang suot ni Oliver nung ginahasa ka niya nung February 2?

A Wala po.

Q Nakatapos ba si Oliver sa panggagahasa sa iyo nung February 2?

A Opo.

Q Papano mo nalaman na nakatapos si Oliver?

A Basa na po ang ari ko.

Q Ano naman ang nararamdaman mo habang pinapasok ni Oliver ang ari niya sa ari mo?

A Masakit po.

Q Bukod kay Oliver meron pa bang gumahasa sa iyo nuong February 2, 2001?

A Opo. Si Lito po.

Q Pagkatapos ni Oliver ginahasa ka ni Lito?

A Opo.

Q Nagtagumpay ba si Lito o Herminigildo Organista sa panggagahasa sa iyo nung February 2, 2001?

A Opo.

Q Nakatapos ba siya?

A Opo.

Q Bakit mo nasabi na nakatapos si Lito ng panggagahasa sa iyo?

A Naramdaman ko pong basa.

Q Ang ano?

A Ang ari ko po.

Q Nasaan si Oliver habang ginagahasa ka ni Herminigildo?

A Nanonood po.

Q Bukod sa panonood, meron ba siyang ginawa kung meron man habang ginagahasa ka ni Lito?

A Hinawakan po ang kamay ko.

Q Dumako tayo sa sumunod na araw February 3, 2001. Natatandaan mo ba kung may nangyari sa iyo nuong February 3, 2001?

A Opo.

Q Ano ang nangyari sa iyo?

A Ni-rape po kami ni Regina.

Q Sino ang nang-rape sa inyo?

A Si Oliver at si Lito po.

Q Nuong February 3, 2001, sino ang unang nang-rape sa iyo?

A Oliver po.

Q Saang lugar ka niya ni-rape?

A Sa bahay po niya.

Q Saang parte ng bahay?

A Cembo, Makati.

Q Oo, pero saan ba sa kama, sa sahig....?

A Sa kama po.

Q Lumaban ka ba kay Oliver bago ka niya ginahasa nuong February 3?

A Malakas po siya.

Q Sinasaktan ka ba niya?

A Opo.

Q Sa papanong paraan?

A Sampal po.

Q Ano pa kung meron?

A Sabunot po.

Q Ano pa kung meron?

A Wala na po.

Q Pagkatapos kang sampalin at sabunutan ano ang ginagawa sa iyo ni Oliver?

A Ni-rape po niya ako.

Q Sigurado ka ba diyan?

A Opo.

Q Si Oliver naman, meron ba siyang damit nung ginagahasa ka niya?

A Wala na po.

Q Nakita mo ba nung nag-alis siya ng damit?

A Nakita ko po wala na siyang damit.

Q Matapos kang hubaran at nakita mo siyang wala ng damit, ano naman ang sumunod na nangyari?

A Pinasok po ang ari niya sa akin.

Q Nakatapos ba siya?

A Opo.

Q Papano mo nasabi na nakatapos si Oliver sa panggagahasa sa iyo nung February 3, 2001?

A Basa na po ang ari ko.

Q Pagkatapos na naramdaman mo na basa na ang ari mo ano ang sumunod na nangyari?

A Ni-rape po ako.

Q Nino?

A Lito, po.

Q Meron ba siyang suot na damit nuong ni-rape ka ni Lito?

A Wala na po.

Q Nakita mo ba ng maghubad si Lito?

A Opo.

Q Nakatapos ba si Lito ng panggagahasa sa iyo?

A Opo.

Q Papano mo nalaman na nakatapos si Lito ng panggagahasa sa iyo?

A Basa na po ang ari ko.

Q Nasaan naman si Oliver habang ginagahasa ka ni Lito?

A Nanonood po.

Q Hinawakan ba niya ang kamay mo o paa mo?

A Opo.

x x x x x x x x

Q Sino ang nang-rape sa iyo nuong February 4, 2001?

A Si Oliver po.

Q Nagtagumpay ba si Oliver nuong February 4?

A Opo.

Q Saang lugar ka ng bahay niya ni-rape?

A Sa kama po.

Q May damit ka ba ng gahasain ka ni Oliver?

A Wala na po.

Q Sino ang nag-alis sa iyo ng iyong damit?

A Si Oliver po.

Q Si Oliver, meron ba siyang damit nang gahasain ka noong February 4?

A Wala na po.

Q Nagtagumpay ba siya ng panggagahasa sa iyo nung February 4?

A Opo.

Q Nakatapos ba siya?

A Opo.

Q Papano mo nasabi na nakatapos siya sa panggagahasa sa iyo nuong February 4?

A Basa na po ang ari ko.

Q Papano mo nasabi na basa na ang ari mo?

A Naramdaman ko po.

Q Naipasok ba ni Oliver ang ari niya sa ari mo nuong February 4?

A Opo.

Q Papano mo nasabi na napasok niya yung ari niya sa ari mo?

A Masakit na po.

Q Masakit ang alin?

A Ang ari ko po.

Q Lumaban ka ba sa kaniya habang ginagahasa ka niya?

A Malakas po siya.

x x x x x x x x

Q Hindi ka ginahasa ni Herminigildo nung February 4?

A Opo.

Q Opo ginahasa o opo hindi?

A Opo ginahasa po.

Q Ginahasa din?

A Opo.

Q Sinong nauna, si Oliver o si Herminigildo?

A Si Lito po ang nauna.

Q Pagkatapos ni Lito si Oliver?

A Opo.

x x x x x x x x

Q Si Lito o Herminigildo, ni-rape ka ba niya nung February 5, 2001?

A Opo.

Q Nagtagumpay ba si Oliver sa pag-rape sa iyo nung February 5, 2001?

A Opo.

Q Paano mo nalaman na nakatapos ng panggagahasa sa iyo?

A Basa na po ang ari ko.

Q Sinabi mo na ni-rape ka ni Lito nung February 5, 2001, nagtagumpay ba si Lito?

A Opo.

Q Nakatapos ba siya ng panggagahasa sa iyo?

A Opo.

Q Pano mo nalaman na nakatapos siya nung February 5, 2001?

A Basa na po ang ari ko.

Q Pano mo nalaman na basa na ang ari mo?

A Naramdaman ko po.

x x x x x x x x

Q Dumako tayo sa February 6, 2001. Natatandaan mo ba kung may nangyari sa iyo nung araw na iyon?

A Dalawa po kami ni Regina.

Q Ano ang nangyari sa iyo at kay Regina?

A Rape po.

Q Sino ang nang-rape sa iyo at kay Regina?

A Si Oliver at si Lito po.

Q Sino ang naunang nang-rape sa iyo nung February 6 si Oliver o si Herminigildo?

A Si Lito po.

Q Nagtagumpay ba si Herminigildo sa panggagahasa sa iyo nung February 6, 2001?

A Opo.

Q Nakatapos ba siya?

A Opo.

Q May damit ka ba o hubad ka nung ginagahasa ka nung February 6, 2001?

A Wala na po.

Q Sinong nagtanggap sa iyo ng damit?

A Lito po.

Q Lumaban ka ba sa kaniya habang tinatangalan ka niya ng damit?

A Malakas po siya.

Q Matapos kang tanggala ng damit ni Lito nung February 6, ano ang ginawa niya sa iyo?

A Pinasok po ang ari niya sa ari ko.

Q Ikaw ba'y nasa kama o sa sahig, o sang lugar ka ng bahay nandon?

A Sa kama po.

Q Matapos maipasok ni Lito ang ari niya sa ari mo ano ang naramdaman mo?

A Masakit po.

Q Nakatapos ba si Lito sa panggagahasa nung February 6, 2001?

A Opo.

Q Bakit mo nasabing nakatapos siya?

A Basa po ang ari ko.

Q Sino ang sumunod na gumahasa sa iyo nung February 6 pagkatapos ni Lito, kung meron man?

A Si Regina na po.

Q Ang ginahasa?

A Opo.

Q Nino?

A Ni Lito.

Q Nakatapos ba siya?

A Opo.

Q Papano mo nalaman na nakatapos si Oliver ng panggagahasa sa iyo?

A Nabasa po ang ari ko.

Q Lumaban ka ba kay Oliver?

A Malakas po sila.

x x x x x x x x

Q Dumako tayo sa February 7. Natatandaan mo ba kung may nangyari sa iyo nuong February 7, 2001?

A Opo.

Q Ano ang nangyari sa iyo nuong February 7, 2001?

A Ni-rape po kami ni Regina.

Q Sinong nang-rape sa inyo?

A Oliver at Lito po.

Q Sino ang naunang nang-rape sa iyo nuong February 7, 2001, si Oliver o si Herminigildo?

A Oliver po.

Q Nakatapos ba siya?

A Opo.

Q Paano mo nalaman na nakatapos siya nuong February 7, 2001?

A Basa na po.

Q Ang alin?

A Ang ari ko po.

x x x x x x x x

Q Dumako tayo sa February 8. Natatandaan mo ba kung may nangyari sa iyo nuong February 8?

A Kami po ni Regina.

Q Anong nangyari sa inyong dalawa ni Regina[?]

A Magdamag po.

Q Magdamag na ano ang nangyari?

A Rape po.

Q Sinong nang-rape?

A Si Oliver at si Lito po.

Q Sinong naunang mang-rape sa iyo noong February 8, 2001?

A Si Oliver po.

Q Nagtagumpay ba si Oliver ng pangre-rape sa iyo noong February 8, 2001?

A Opo.

Q Nakatapos ba siya?

A Opo.

Q Papano mo nalaman na nakatapos siya?

A Basa na po ang ari ko.

x x x x x x x x

Q Dumako tayo sa February 10, 2001. Natatandaan mo ba kung may nangyari sa iyo?

A Ginagahasa kami ni Regina gabi-gabi.

Q Nino?

A Yung mga nagbayad po.

Q Ginahasa ka ba ni Oliver nuong February 10, 2001?

A Opo.

Q Nagtagumpay ba si Oliver sa panggagahasa sa iyo noong February 10?

A Opo.

Q Nakatapos ba siya?

A Opo.

Q Saan ka niya ginahasa, sa sahig, sa kama, saan?

A Sa kama.

Q May damit ka ba nung ginahasa ka ni Oliver?

A Wala po.

Q Sinong nag-alis sa iyo ng damit nuong February 10?

A Oliver po.

Q Lumaban ka ba sa kaniya habang inaalisan ka ng damit noong February 10?

A Malakas po siya.

x x x x x x x x

Q Ginahasa ka ba ni Oliver nuong February 11, 2001?

A Opo.

Q Nagtagumpay ba si Oliver sa panggagahasa sa iyo noong February 11?

A Opo.

Q Nakatapos ba siya?

A Opo.

Q Saan ka niya ginahasa, sa sahig, sa kama, saan?

A Sa kama po.

x x x x x x x x

Q Anong natatandaan mong nangyari sa iyo noong February 12?

A Ginagahasa kami ni Regina.

COURT:

Q Ilan ang nang-rape sa inyo nong February 12?

A Marami po.

Q Noong February 11, 13.

A Marami po.

Q Noong February 14?

A Marami rin po.

Q Samakatuwid, yung ginawa sa inyo nuong February 11 ay ginawa rin sa inyo noong February 12, 13 and 14?

A Opo.

Q Proceed.

FISCAL NAÑOLA:

Q Nitong February 12, natatandaan mo ba kung doon sa maraming iyon ay kasama si Oliver Arevalo?

A Opo.

Q Si Herminigildo o si Lito, kasama ba si Lito sa marami?

A Opo.

x x x x x x x x

Q Noong February 13, 2001, natatandaan mo ba kung merong nangyari sa iyo?

A Opo.

Q Sabihin mo nga sa kagalang-galang na Hukom kung ano ang nangyari sa iyo nuong February 13, 2001?

A Binenta po kami ni Regina.

Q Sino ang nagbenta sa inyo?

A Si Oliver po.

Q Pero ginahasa ka ba ni Oliver bukod sa taong pinagbentahan niya?

A Opo.

Q Nagtagumpay ba si Oliver sa panggagahasa sa iyo noong February 13?

A Opo.

Q Si Lito ginahasa ka ba noong February 13?

A Opo.

Q Nung matapos kang gahasain ni Oliver, noong February 13, 2001, ang ibig mong sabihin binenta ka?

A Opo.”[26]

After a painstaking review of the records of the case, we find no cogent reason to disturb the trial court’s findings on the credibility of the witnesses. When in open court they positively identified appellants as their rapists, the trial court rightly declared:

“The Court has closely observed the demeanor of the two complainants and did not find any ill-motive on their part to impute a serious offense against the two accused. Clearly evident were the trauma, pain, humiliation and distress on the part of Acu[ñ]a and the state of daze or shock Acosta was in. x x x.”[27]

Nevertheless, though appellants are guilty of raping the victims, modifications have to be made regarding the counts of rape for which each of them should be held liable.

From January 23 to 26, 2001,[28] only Arevalo, not Organista, should be held liable for the rapes of Acuña. A careful review of the records[29] shows that she identified only Arevalo as her rapist on those dates.

For the rapes committed against Acosta on January 23, 25 and 26, 2001,[30] her testimony confirmed that both appellants had raped her separately.[31] It was not established, however, that Organista had raped her on January 24, 2001;[32] therefore, only Arevalo should have been convicted for the rape on that date.

Acuña, on the other hand, clearly testified[33] that Organista had raped her only on February 14, 2001.[34] She further testified that after raping her, Organista had subsequently raped Acosta.[35] But Acosta was silent on whether she was raped by Organista on that date.[36] Because she was the best person to say whether he had raped her on that date, and she was silent on the matter, we resolve the doubt in his favor and acquit him of the offense that he allegedly committed on that date.

Regarding the other counts of rape, we find no reason to disturb the trial court’s findings. For the rape of Acuña, Arevalo is found guilty of simple rape under Criminal Case Nos. 01-419 to 423, 01-425 to 01-428 and 01-430 to 01-441. He is likewise found guilty of the rape of Acosta in Criminal Case Nos. 01-442 to 01-446, 01-448 to 01-451 and 01-0453 to 01-464.

On the other hand, for the rape of Acuña, Organista is found guilty of simple rape under Criminal Case Nos. 01-441. He is also found guilty of the rape of Acosta in Criminal Case Nos. 01-442, 01-444 to 01-445 and 01-464.

Criminal Liability

The trial court erred, however, in imposing the penalty of death upon appellants when it appreciated the circumstance of rape by two or more persons twice — once as a qualifying, then as an aggravating, circumstance.

Article 266-B of the Revised Penal Code provides:

“ART. 266-B. Penalties. – Rape under paragraph 1 of the next preceding article shall be punished by reclusion

perpetua.

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

x x x x x x x x.”

From the above, whenever the crime committed is simple rape, the penalty to be imposed is the single penalty of reclusion perpetua. On the other hand, whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

We must note, however, that the Revised Rules of Criminal Procedure, which took effect on December 1, 2000, requires that the complaint or information should state the qualifying and the aggravating circumstances with specificity.[37] In the present case, no aggravating circumstance was alleged in the Informations. Hence, the lesser penalty should be applied, as the Court held in *People v. Sabredo*: [38]

“The imposable penalty for rape under Article 335 of the Revised Penal Code, as amended by R.A. No. 7659, is reclusion perpetua. But where the rape is committed with the use of deadly weapon or by two or more persons, the imposable penalty ranges from reclusion perpetua to death. The use of the bladed weapon already qualified the rape. Under Article 63 of the Revised Penal Code, the crucial factor in determining whether appellant should be meted the death penalty is the presence of an aggravating circumstance which attended the commission of the crime. A perusal of the records shows that none of the aggravating circumstances enumerated in Article 14 of the Revised Penal Code was alleged and proven by the prosecution. Where there is no aggravating circumstance proved in the commission of the offense, the lesser penalty shall be applied.” [39]

Second Issue:

Conspiracy

Appellants contend that conspiracy did not attend the rapes committed from January 23 to 26 and on February 14, 2001.

This contention is partly meritorious.

Without specifying whether it was referring to Acuña or Acosta, the trial court declared that appellants were in conspiracy in the rapes committed from January 23 to 26 and on February 14, 2001. From the records, however, it seems that no such conspiracy took place when appellants separately raped Acosta on those dates. To be appreciated, conspiracy must be shown to have been committed as clearly and convincingly as the offense itself. [40]

The Rape of Regina Acuña

As regards Acuña, there was conspiracy only during the rape that occurred on February 14, 2001. We reiterate that, from the records, [41] her account of the rapes that happened from January 23 to 26, 2001 shows that only Arevalo, not Organista, raped her. Furthermore, no conspiracy attended the rapes on those dates.

On February 14, 2001, both appellants raped her. [42] It was Arevalo who removed her clothes before Organista raped her. [43] Moreover, when the latter advanced towards her and she pushed him away, Arevalo — who was standing inside the same room all the while — kept egging him on by saying, “Kaya mo yan pre.” The latter continued until he consummated his bestial attack upon the victim.

We have held that an overt act in furtherance of conspiracy may consist of lending moral assistance to the co-conspirators even through one’s mere presence at the scene of the crime. [44] In the present case (Criminal

Case No. 01-441), Arevalo's presence and words encouraged Organista to pursue his savage designs.

The Rape of Ruth Acosta

The records of the rape of Acosta from January 23 to 26 and on February 14, 2001, do not support the finding of conspiracy.

On January 23, 2001,[45] appellants separately raped her one after the other, but only Arevalo raped her on January 24, 2001.[46] On January 25[47] and 26,[48] appellants again separately raped her one after the other, but it was only Arevalo who raped her on February 14, 2001.[49]

Third Issue:

Insanity

Organista argues that the trial court erred in not exempting him from criminal liability, even though he was insane or completely deprived of intelligence during the commission of the rapes. He avers that his insanity may be deduced from the following:

First, he cannot remember the events that transpired from January 23 to February 14, 2001, because the treatments he has been undergoing at the National Center for Mental Health since 1983 have weakened his memory.

Second, Dr. Pia Alma de Jesus of the National Center for Mental Health testified that he had displayed psychotic symptoms like hallucinations and delusions. She opined that his failure to take his medications regularly could have caused his relapse.

Third, the behavior and actuations he exhibited before and after the rapes were manifestations of mental instability. As testified to by his mother, he was violent and destructive to the extent of habitually setting their home furniture on fire. He even threatened to kill her when she confronted him on his behavior.

Fourth, the New Bilibid Prison, where he is presently locked up, certified that he still suffers from chronic schizophrenia.

We are not persuaded.

The law presumes everyone to be sane.[50] The accused who pleads the exempting circumstance of insanity incurs the burden of proving it.[51] To be adjudged insane under Article 12 of the Revised Penal Code, he or she must have been completely deprived of reason or discernment and freedom of the will at the time the crime was committed.[52] For such deprivation to be ascertained, it is but proper to receive evidence during a reasonable period before or after the commission of the crime, for the mind — its thoughts, motives and emotions — may be fathomed only by examining whether the external acts conform with those of people of sound minds.[53]

In the present case, while Organista had indeed been confined at the National Center for Mental Health for treatment, it does not necessarily follow that he still suffered from schizophrenia during the period of the rapes. No convincing evidence was presented by the defense to show that he had not been in his right mind, or that he had acted under the influence of a sudden attack of insanity, or that he had generally been regarded as insane around the time of the commission of the acts attributed to him. Well-settled is the rule that an inquiry into the mental state of the accused should relate to the period immediately before or at the very moment the act under prosecution was committed.[54] Mere prior confinement in a mental institution does not prove that the perpetrator was deprived of reason at the time the crimes were committed.[55]

It must be noted that Organista had been discharged from the mental hospital well before the period of the rapes. We have held that if the insanity is only occasional or intermittent, the presumption of its continuance does not

arise.[56] One who relies on insanity proved at another time must prove its existence also at the time of the commission of the offense.[57]

To prove his claimed insanity, Organista presented, as an expert witness on his mental condition, Dr. Pia Alma S. de Jesus of the National Center for Mental Health. It is important to note that she only began treating him beginning April 2001, or two months after the rape incidents,[58] upon orders of the trial court. Referring to hospital records, she narrated that he had been mentally ill since 1982 or 1983 and had been admitted to the Center a total of 23 times.[59] Prior to the rapes, his last confinement had been from October 27 to December 1, 1997,[60] again for schizophrenia. Likewise noteworthy is the fact that this period covering his last admission and discharge prior to the rapes was outside that of the commission thereof — January 23 to February 14, 2001. Dr. De Jesus further testified that Organista had already been considered treated on the date of his discharge in 1997.[61] Though she opined that a patient who did not continue to take medications could suffer a relapse, she did not categorically state whether Organista had suffered such a relapse before the commissions of the rape.

On the other hand, the prosecution has sufficiently established that Organista knew exactly what he was doing. His going to the house of Arevalo and either directly or indispensably cooperating with him — day after day to ravish the victims — could not have been the act of one so insane as to be incapable of entertaining a criminal intent. On February 14, 2001, specifically, Organista continued to ravish Acuña after being coaxed by Arevalo, “Kaya mo yan pre.”[62] That Organista persisted in the act all the way to its consummation leaves no doubt that it was voluntary, conscious and deliberate. Moreover, his attempt to flee when the police officers came to arrest him shows that he knew that what he had done was condemnable.

Furthermore, Organista’s claimed amnesia does not preclude culpability. This charade is evidently a desperate ploy for exculpation. Failure to remember does not in itself prove the existence of such mental condition at the time the crime was committed.[63]

The testimony of Organista himself militates against his credibility and puts his purported amnesia into serious question. During trial, he said that he could not remember where he had been from January 23 to 26, 2001. Surprisingly, he could remember perfectly well the number of times he had been treated at the National Center for Mental Health since 1983, what procedure he had gone through each time he was treated, the kind of medicine he had been given, the number of times Appellant Arevalo had borrowed money from him without paying, the total amount of money he had lent the former, and the resentment the latter had often felt whenever his friend would not repay him. Moreover, he could narrate in complete detail his fabricated story of how he had allegedly met the victims on February 14, 2001, and lent them money only to be later arrested for rape.[64] The prosecution aptly point out that his selective amnesia and mental dishonesty speak eloquently of his total lack of credibility on the witness stand.

Finally, Organista is not entitled to the mitigating circumstance under Article 13(9) of the Revised Penal Code, because it was not shown that his mental illness at the time immediately preceding or at the very moment of the commission of the crime diminished his will power.

Civil Liability

The trial court’s award of damages should be modified. Prevailing jurisprudence holds that for each count of simple rape, the victim should be awarded P50,000 as civil indemnity and another P50,000 as moral damages for the injury evidently suffered.[65] This Court has granted moral damages to victims of rape without need of proof other than the fact of rape, which by itself shows the factual basis for the award.[66] The award of P100,000 to each of the victims by way of exemplary damages should be deleted, because no aggravating circumstance was proven.

WHEREFORE, the October 26, 2001 Decision of the Regional Trial Court of Makati City (Branch 62), finding appellants guilty of qualified rape, is MODIFIED.

The Court finds Oliver Arevalo y Abanilla Jr. GUILTY beyond reasonable doubt of SIMPLE RAPE. He is sentenced to suffer the penalty of reclusion perpetua for each count of rape in Criminal Case Nos. 01-419 to 01-423, 01-425 to 01-428, 01-430 to 01-446, 01-448 to 01-451 and 01-453 to 01-464. Furthermore, he is hereby ordered to pay the following:

1. To Regina Acuña, the amount of P50,000 as civil indemnity and P50,000 as moral damages for each count of rape in Criminal Case Nos. 01-419 to 01-423, 01-425 to 01-428, and 01-430 to 01-441
2. To Ruth Acosta, the amount of P50,000 as civil indemnity and P50,000 as moral damages for each count of rape in Criminal Case Nos. 01-442 to 01-446, 01-448 to 01-451 and 01-453 to 01-464

Herminigildo Organista y Andres is found GUILTY beyond reasonable doubt of SIMPLE RAPE and is sentenced to suffer the penalty of reclusion perpetua for each count of rape in Criminal Case Nos. 01-441 to 01-442 and 01-444 to 01-445. He is likewise ordered to pay the following:

1. To Regina Acuña the amount of P50,000 as civil indemnity and P50,000 as moral damages for each count of rape in Criminal Case No. 01-441
2. To Ruth Acosta, the amount of P50,000 as civil indemnity and P50,000 by way of moral damages for each count of rape in Criminal Case Nos. 01-442, 01-444 and 01-445

With respect to Criminal Case No. 01-441, both appellants are found guilty of two (2) counts of rape, for which the penalty of reclusion perpetua for each count is meted out to them.

Finally, Herminigildo Organista y Andres is ACQUITTED in Criminal Case Nos. 01-419 to 01-422 and 01-443 and 01-464.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo Sr., and Tinga, JJ., concur.

Azcuna, J., on official leave – official business.

[1] Rollo, pp. 67-77. Written by Judge Roberto C. Diokno.

[2] RTC Decision, pp. 10-11; rollo, pp. 76-77.

[3] Not “45” as stated in the assailed October 26, 2001 Decision as well as the March 19, 2001 Order. All the Informations were signed by Assistant City Prosecutor Nora C. Sibucan.

[4] Information dated February 16, 2001; rollo, p. 6.

[5] Rollo, pp. 7-28.

[6] Information dated February 16, 2001; rollo, p. 29.

[7] Rollo, pp. 30-51.

[8] See Orders dated March 19, 2001; records, pp. 119-120.

[9] Atty. Rainald Paggao.

[10] Appellee's Brief, pp. 5-25; rollo, pp. 174-194. Signed by Solicitor General Alfredo L. Benipayo, Assistant Solicitor General Amparo M. Cabotaje-Tang and Associate Solicitor Derek Anthony P. Lim.

[11] Appellant's Brief, pp. 21-22; rollo, pp. 120-121. Signed by Attys. Amelia C Garchitorena, Elpidio C. Bacuyag and Ma. Vanessa B. Donato-Balmaceda of the Public Attorney's Office (PAO).

[12] This case was deemed submitted for decision on March 25, 2003, upon receipt by this Court of appellants' Manifestation in Lieu of Reply Brief filed by Atty. Ma. Vanessa B. Donato-Balmaceda of PAO. Earlier, appellants' Brief was received by this Court on August 27, 2002, while appellee's Brief was submitted on February 4, 2003.

[13] Appellants' Brief, pp. 1-2; rollo, pp. 100-101. Original in upper case.

[14] "ART. 13. Mitigating circumstances – The following are mitigating circumstances:

x x x x x x x x

9. Such illness of the offender as would diminish the exercise of the will-power of the offender without however depriving him of consciousness of his acts."

[15] People v. Lachica, 382 SCRA 162, May 9, 2002; People v. Lozano, 371 SCRA 546, December 7, 2001.

[16] People v. Palaña, 379 SCRA 553, March 20, 2002.

[17] People v. Lachica, supra; People v. Cana, 381 SCRA 435, April 22, 2002.

[18] TSN, August 30, 2001, pp. 3, 6-9 & 21.

[19] Id., p. 22.

[20] People v. Baldosa, 381 SCRA 712, May 7, 2002; People v. Santos, 380 SCRA 608, April 11, 2002; People v. Viernes, 372 SCRA 231, December 13, 2001.

[21] People v. Santos, supra; People v. Viernes, supra.

[22] People v. Baluya, 380 SCRA 532, April 11, 2002; People v. Daramay Jr., 382 SCRA 119, May 9, 2002.

[23] TSN, August 6, 2001, pp. 12-24.

[24] TSN, August 8, 2001, pp. 3-16.

[25] TSN, August 13, 2001, pp. 2-25.

[26] TSN, August 17, 2001, pp. 3-50.

[27] RTC Decision, p. 8; rollo, p. 74.

[28] Covered under Criminal Case Nos. 01-419 to 01-422.

[29] TSN, August 6, 2001, pp. 12-24; TSN, August 8, 2001, pp. 2-14.

[30] Covered under Criminal Case Nos. 01-442, 01-444 and 01-445.

[31] TSN, August 17, 2001, pp. 5-12.

[32] Covered under Criminal Case No. 01-443.

[33] TSN, August 8, 2001, p. 9.

[34] Covered under Criminal Case No. 01-441.

[35] TSN, August 13, 2001, p. 25.

[36] Covered under Criminal Case No. 01-464.

[37] Section 8 of Rule 110 reads:

“SEC. 8. 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.”

[38] 331 SCRA 682, May 11, 2000.

[39] *Id.*, p. 691, per Quisumbing, J.

[40] *People v. Aquino*, 366 SCRA 266, September 28, 2001; *People v. Listerio*, 335 SCRA 40, July 5, 2000.

[41] See TSN, August 6, 2001, pp. 12-25, for the rapes committed on January 23-24, 2001; TSN, August 8, 2001, pp. 2-3, 8, for the rape committed on January 25, 2001; TSN, August 8, 2001, pp. 11-14, for the rape committed on January 26, 2001.

[42] TSN, August 15, 2001, pp. 21-26.

[43] TSN, August 13, 2001, p. 22.

[44] *People v. Arofo*, 380 SCRA 663, April 11, 2002.

[45] TSN, August 17, 2001, pp. 6-7.

[46] *Id.*, pp. 7-8.

[47] *Id.*, pp. 9-10.

[48] *Id.*, pp. 10-11.

[49] *Id.*, p. 48.

[50] *People v. Condino*, 369 SCRA 325, November 19, 2001; *People v. Mengote*, 364 Phil. 874, March 25, 1999; *People v. Tabugoca*, 349 Phil. 236, January 28, 1998.

[51] *Ibid.*

[52] *People v. Legaspi*, 357 SCRA 234, April 20, 2001; *People v. Austria*, 328 Phil. 1208, July 31, 1996.

[53] *People v. Austria*, *supra*.

[54] *Ibid.*, *People v. Condino*, *supra*.

[55] *People v. Legaspi*, *supra*.

[56] *Ibid.*

[57] *Ibid.*

[58] TSN, September 10, 2001, p. 5.

[59] *Ibid.*

[60] *Id.*, p. 12.

[61] *Id.*, p. 6.

[62] TSN, August 13, 2001, p. 22.

[63] *People v. Tabugoca*, *supra*.

[64] TSN, September 3, 2001, pp. 50-75.

[65] *People v. Legaspi*, *supra*; *People v. Rodriguez*, 376 SCRA 408, February 6, 2002; *People v. Garcia*, 381 SCRA 722, May 7, 2002.

[66] *People v. Arofo*, *supra*; *People v. Cana*, 381 SCRA 435, April 22, 2002; *People v. Lachica*, 382 SCRA 162, May 9, 2002.

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