

EN BANC

[G.R. Nos. 132442-44, September 24, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BERNARDINO ARANZADO, ACCUSED-APPELLANT.**

DECISION

DAVIDE, JR., C.J.:

In a joint decision of Branch 19 of the Regional Trial Court of Isulan, Sultan Kudarat, in Criminal Cases Nos. 2384, 2385 and 2386 promulgated on 21 November 1997,^[1] accused-appellant Bernardino Aranzado (hereafter BERNARDINO) was convicted of three counts of rape committed against her twelve-year-old daughter Zeny Aranzado (ZENY). He was sentenced to suffer the death penalty in each count. The decision is now before this Court for automatic review pursuant to Article 47 of the Revised Penal Code, as amended by Section 11 of Republic Act No. 7659.

The accusatory portion of the information in Criminal Case No. 2384 reads as follows:

That in the evening of March 7, 1997, at Poblacion, Municipality of Esperanza, Province of Sultan Kudarat, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with lewd and unchaste designs and by means of force and intimidation, did then and there, willfully, unlawfully and feloniously lie and succeeded in having carnal knowledge of ZENY G. ARANZADO, his twelve (12) years old daughter, against her will and consent.

CONTRARY TO LAW, particularly Article 335 of the Revised Penal Code of the Philippines, as amended by Republic Act [No.] 7659.^[2]

The accusatory portions of the informations in Criminal Cases Nos. 2385 and 2386 are similarly worded except as to the date of the commission of the crime, which is 10 March 1997.^[3]

Upon arraignment on 19 May 1997, BERNARDINO, assisted by his counsel Atty. Lorenzo F. Balo, entered a plea of not guilty in each case. A joint trial was granted, and the pre-trial and trial on the merits was set on 20 October 1997.

On 20 October 1997, BERNARDINO, through his counsel Atty. Balo, moved to withdraw his previous plea of not guilty in each of the three cases and to substitute the same upon re-arraignment with pleas of guilty. The trial court then instructed BERNARDINO to approach the court rostrum and conducted the inquiry, thus:

ATTY. Your Honor, actually after I have conferred with my
BALO: client, Your Honor, he intimated to me that he is ready
 to withdraw his former plea of not guilty and he is

asking for his re-arraignment to enter a plea of guilty to the offenses charged in all these three (3) cases.

COURT: Let the accused come nearer to the rostrum.
Your counsel, Atty. Lorenzo Balo, informed the Court that you are allegedly contemplating to withdraw your former plea of not guilty in these three (3) cases. Do you confirm the said manifestation of your counsel?

ACCUSED: Yes, Your Honor.

COURT: Did somebody force or coerce you to withdraw your former plea of not guilty?

ACCUSED: None, Your Honor.

COURT: Are you telling the Court that it is of your own free and voluntary will and decision to withdraw your former plea of not guilty in each of these three (3) cases filed against you?

ACCUSED: Yes, Your Honor.

COURT: If the Court allows you to withdraw your former plea of not guilty, what plea would you enter in each of these three (3) cases?

ACCUSED: I will admit the crimes charged, Your Honor.

COURT: Do you know Zeny Aranzado, the private complainant in these cases?

ACCUSED: Yes, Your Honor. I know her because she is my daughter.

COURT: Do you know when she was born?

ACCUSED: She was born on November 19, 1984, Your Honor.

COURT: Did you understand and realize the consequences of pleading guilty to the crime of rape in each of these cases filed against you by your daughter?

ACCUSED: Yes, Your Honor, I will be convicted.

COURT: The penalty that might be imposed against you will be death, thru lethal injection, as the complainant, your daughter, is below 18 years old. With this information, do you still want to withdraw your former plea of not guilty and enter a plea of guilty?

ACCUSED: I cannot do anything, Your Honor. I have committed it against my daughter. I will still withdraw my former plea of not guilty and enter a plea of guilty.

COURT: Are you telling the Court, in the presence of your

counsel, that you have committed the crimes charged against you in each of these three (3) cases?

ACCUSED: Yes, Your Honor. I admit, but may I be allowed to state the reason why.

COURT: Okay, what is your reason why you have committed the crimes charged against you in these cases.

ACCUSED: During that time, Your Honor, I was very drunk and I was under the influence of drug and I have a very big problem with my family that nobody could help me. That was the reason why I committed the said crimes, Your Honor.

COURT: What was your problem?

ACCUSED: During that time, Your Honor, I ha[d] a very big problem with my family. An incident happened that my house was burned and I [did] not know how to solve my problem.

COURT: And because of that problem, you have committed the crimes in question?

ACCUSED: Yes, Your Honor. I did that because I think I was not in my proper mind at that time.

COURT: Okay, the Court will call this case again at 10:00 o'clock this morning. Try to reconsider your decision to withdraw your former plea of not guilty, and the consequences of your decision, since the crime of rape is a capital offense and carries the maximum penalty of death.

ACCUSED: Yes, Your Honor.

COURT: Give this case a second call later at about 10:00 o'clock in the morning, to allow the accused to reconsider and to contemplate further on whether or not, his desire to change his former plea is improvidently given, even if he was accordingly assisted earlier by his counsel before deciding to consider a substitution of his former plea of not guilty.^[4]

Twenty minutes past ten o'clock that same morning, the trial court called again the case, and the following proceedings took place:

COURT: The Court has given you more than two (2) hours to reflect, on whether or not to continue with your desire to change your former plea of not guilty to a plea of guilty in each of these cases filed against you. The Court had given you enough time to reconsider very seriously your intention to withdraw your former plea of not guilty and to enter a plea of guilty to the crimes

charged against you in these cases. Have you finally decided on whether or not to withdraw your former plea of not guilty?

ACCUSED: I have decided to withdraw my former plea of not guilty, and I intend to enter a plea of guilty, Your Honor.

COURT: What is your motion, Atty. Balo?

ATTY. May we move to withdraw the plea of not guilty of the
BALO: accused, Your Honor, in all these cases, and thereafter, the accused be re-arraigned in these cases.^[5]

The trial court then issued an order for the re-arraignment of BERNARDINO. Thereafter, he was re-arraigned.^[6]

The trial court thereafter issued an order^[7] directing the prosecution to present additional evidence as to the guilt of BERNARDINO and the circumstances attending the commission of the crime, independently of the plea of guilty in order to leave no room for doubt as to the possibility of a misunderstanding on his part on the precise nature of the charges to which he pleaded guilty. The trial court denied the motion for favorable appreciation of the voluntary plea of not guilty as a mitigating circumstance on the ground that it was not spontaneous considering that BERNARDINO had already previously entered pleas of not guilty when he was arraigned on 19 May 1997.

Conformably with the order of 20 October 1997 the prosecution presented its witnesses on the next day, 21 October 1997. ZENY, its first witness, testified that she was born on 19 November 1984 in Sto. Niño, South Cotabato. Her parents were BERNARDINO and Lourdes Gerongani. At about midnight of 7 March 1997, she was sleeping with her sisters and younger brother in their house at Poblacion, Esperanza, Sultan Kudarat, when the knocking at the door of their room awakened her. When she opened the door, her father immediately slapped her and demanded to know why she locked the door. Then, BERNARDINO asked her daughter: "Can I touch your vagina?" Repulsed by the suggestion, ZENY refused, only to find just as quickly that her father had poked a knife at her neck.^[8]

BERNARDINO thereafter pulled ZENY's hair, forcibly held her down the floor and boxed her stomach. Recognizing the weakness of his daughter, he undressed her; and while choking her he imposed his lechery. He was obstinate to her daughter's pleas for mercy and compassion. He warned her not to tell anyone of the deed or he would kill her. He then stood up, dressed up and left the daughter to her weeping.^[9]

Unsatisfied with that single act of carnality, BERNARDINO repeated the assault on the honor and chastity of ZENY about midnight of 10 March 1997. This time he surreptitiously crawled to the sleeping ZENY and pulled her to the side of the room. Sensing the assault, ZENY's older sister put on the light only to be menacingly instructed by BERNARDINO to put it off. BERNARDINO then dragged her daughter to the sala and, while poking a knife at her, undressed her and performed the sexual act. ZENY was helplessly crying, but her father continued with the sexual onslaught. Desperate for escape, ZENY nonetheless could not move as she was entwined between her father's legs. After about ten minutes, BERNARDINO again imposed his

lasciviousness upon her. He pulled ZENY to the room where he slept and had sexual intercourse with her. Thus, ZENY was sexually violated twice that evening.^[10]

The siblings finally found the courage to escape to their grandmother's house in Sto. Niño, South Cotabato, on 12 March 1997. There, they told their grandmother about the dastardly deed committed by their father BERNARDINO. While initially engulfed in her disbelief, their grandmother discerned the truth in the revelations of her grandchildren about her son's lechery. She sought the help of the local police such that when on 13 March 1997 BERNARDINO arrived at her house apparently in pursuit of the siblings, he was immediately placed under arrest. ZENY also claimed that she was able to take possession of the knife her father used to cow her to submit to his carnal designs when she passed by her house previous to her sworn recitation of the events at the police station.^[11]

The next prosecution witness was Dr. Hernie de los Reyes Baraquia, who conducted the physical examination on ZENY on 3 March 1997. She declared that she discovered "a minor abrasion on [the girl's] cheek, ... contusion hematoma on [the] right anterior triangle of her neck ... superficial laceration wound on her right palm, thumb area, and another contusion hematoma on her left arm flexor area and another... superficial wound on her left elbow." Dr. Baraquia detected as significant the results of her examination on the girl's genitalia, as the intriutus admitted two fingers with no resistance and had healed lacerations at 10 o'clock and 11 o'clock positions.^[12] She then identified the Medico Legal Certificate^[13] which contained the outcome of her physical examinations on ZENY.

ZENY's grandmother also testified; however, she merely corroborated ZENY's narration of her harrowing tale in the hands of her own father.

BERNARDINO opted to dispense with the presentation of his evidence.

The trial court promulgated its decision on 21 November 1997. It lent full faith and credence to the evidence of the prosecution that BERNARDINO committed rape against her twelve-year-old daughter on three separate occasions as alleged in the three separate indictments. It was convinced, with moral certainty and without any iota of doubt in view of the unquestionable credibility of the witnesses and the un rebutted testimonies and evidence, that BERNARDINO perpetrated the "revolting crime." BERNARDINO's pleas of guilty reinforced the trial court's confidence in its decision.

Determining ZENY to be below eighteen (18) years of age or, to be exact, twelve (12) years, three (3) months and twenty-one (21) days old at the time she was sexually molested (per the Birth Certificate)^[14] and that the perpetrator was her father, the court found it imperative to impose the death penalty on the latter for each count of rape pursuant to Section 11 of R.A. No. 7659, which amended Article 335 of the Revised Penal Code. It also ordered BERNARDINO, in each case, to pay his daughter ZENY moral damages in the amount of P50,000 and exemplary damages in the amount of P25,000; the latter award was imposed to deter other fathers with perverse tendencies or aberrant sexual behaviour from sexually abusing their daughters.