

## EN BANC

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

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

### DECISION

#### **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<sup>[1]</sup> 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. Acu[ñ]a 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 Acu[ñ]a 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."<sup>[2]</sup>

A total of forty-six (46) separate Informations<sup>[3]</sup> 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[x]A y GUTIERREZ, without her consent and against her will."<sup>[4]</sup>

The Informations<sup>[5]</sup> 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."<sup>[6]</sup>

Again, the Informations<sup>[7]</sup> 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,<sup>[8]</sup> appellants, with the assistance of their counsel,<sup>[9]</sup> 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