

THIRD DIVISION

[G.R. Nos. 128159-62, July 14, 2003]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. HIPOLITO
PASCUA, APPELLANT.**

DECISION

CORONA, J.:

Before us is an appeal from the decision dated November 14, 1996 of the Regional Trial Court of Pangasinan, Branch 38, finding the appellant guilty beyond reasonable doubt of four counts of rape and sentencing him to suffer the penalty of *reclusion perpetua* in each case.

The appellant was charged with four counts of rape in separate informations which read:

"CRIM. CASE NO. L-5409

"That on or about the 27th day of January, 1996 in the evening, in [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with force, violence and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with said AAA, a 12-year old minor inside his house against her will and without her consent, to her damage and prejudice.

"CONTRARY to Art. 335 of the Revised Penal Code as amended by R.A. 7659.

"CRIM. CASE NO. L-5410

"That on or about the 6th day of August 1995 in the evening, in [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with force, violence and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with said AAA, a 12-year old minor inside his house against her will and without her consent, to her damage and prejudice.

"CONTRARY to Art. 335 of the Revised Penal Code as amended by R.A. 7659.

"CRIM. CASE NO. L-5411

"That on or about the 20th day of January 1996 in the evening, in

AAA's twin sister, BBB, suffered the same fate at the hands of the appellant. Sometime in August 1995, while BBB was playing with her cousins, the appellant called her and asked her to go inside his house. As soon as BBB entered his house, the appellant closed the door, removed BBB's pants and underwear, and made her lie down on the floor. Thereafter, the appellant inserted his penis into BBB's vagina and ravished her. BBB felt pain but could not shout as appellant threatened to kill her. The appellant also warned her not to tell her mother about the incident. Thus, when BBB went home, she did not tell her mother what appellant had done to her.

On January 20, 1996, BBB was on her way home after buying charcoal from the store when the appellant called her anew. As soon as BBB was inside appellant's house, the latter told her to remove her pants and underwear but BBB refused. So appellant himself forcibly removed BBB's clothes and went on top of her before inserting his penis into her vagina. Again, BBB was not able to shout because she was afraid that the appellant would kill her. As in the prior incident, BBB did not tell her mother that the appellant molested her.

Private complainants' mother, [REDACTED], learned of her daughters' ordeal through her older daughter, [REDACTED], who, in turn, came to know of the rape incidents from the appellant's granddaughter. Apparently the granddaughter witnessed the appellant as he was raping AAA and told [REDACTED] about it.

Upon learning what the appellant had done to her daughters, [REDACTED] confronted them. AAA and BBB were initially reluctant to talk but upon further questioning, they finally revealed that the appellant had sexually abused them. [REDACTED] wasted no time in reporting the matter to their barangay chairman and to the police before whom she filed criminal complaints against the appellant. Thereafter, they proceeded to the Mangatarem District Hospital where the victims were examined by Dr. Athena Merrera.

The medico-legal examination conducted on AAA disclosed that she had lacerations at the 3, 4, 5 and 9 o'clock positions which were caused by the insertion of a hard object like the erect penis of a man. On the other hand, the medical findings on BBB showed that she had lacerations at the 2, 3, 7, 8, 9 and 10 o'clock positions which were also caused by the insertion of a hard object such as an erect penis. These lacerations suffered by both victims were determined to have been inflicted several weeks or months before the examination on February 14, 1996.

At the trial, appellant Hipolito Pascua and his granddaughter, Joy Javier, testified for the defense. The appellant admitted having sexual intercourse with private complainants but insisted that AAA and BBB freely consented to the repeated sexual acts in exchange for money ranging from P5 to P10. On several occasions, AAA and BBB allegedly visited him at home asking for money and sexual satisfaction. In fact, it was private complainants' supposed persistence which drove him to accede to their demands to have sex, even if he was having difficulty achieving erection as he was suffering from hernia. Thus, there was never an instance when the appellant forced or threatened private complainants into having sexual intercourse with him.

Joy Javier declared that she often saw private complainants at the house of the appellant. At one time, she asked BBB if she had sexual intercourse with the appellant to which BBB nodded. She even warned both AAA and BBB that if they