

EN BANC

[G.R. No. 134844-45, January 17, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARDO DE GUZMAN, ACCUSED-APPELLANT.**

DECISION

MELO, J.:

The Court is one of the principal pillars in the protection of the State and the people against criminality, most specially, a crime heinous in character. The crime of rape committed by a parent, ascendant, step-parent, guardian, the common-law spouse of a parent of the victim, or a relative by consanguinity or affinity within the third civil degree, who are among those who are entrusted with the responsibility of rearing the youth, is one of the most disgusting crimes often committed these days. When the victim of rape by any of these persons is under eighteen years of age, the penalty is death. This explains why the decision of Branch 262 of the Regional Trial Court, of the National Capital Judicial Region stationed at Pasig City, is now before us on automatic review.

Accused-appellant was charged under two Informations reading as follows:

CRIMINAL CASE NO. 110978-H

On or about the month of December, 1995 in Tagig, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, with lewd designs and by means of force and intimidation, did, then and there wilfully, unlawfully and feloniously have sexual intercourse with Marlyn Perlas y Roque, thirteen (13) years old, against her will and consent.

(Record, p. 1.)

CRIMINAL CASE NO. 110979-H

On or about the month of October 2, 1996 in Tagig, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, with lewd designs and by means of force and intimidation, did, then and there wilfully, unlawfully and feloniously have sexual intercourse with Marlyn Perlas y Roque, fourteen (14) years old, against her will and consent.

(Record, p. 3.)

The antecedent facts as synthesized in the People's Brief are the following:

The prosecution presented five (5) witnesses, namely: Dr. Tomas Suguitan (TSN, February 18, 1997), a Medico-Legal Officer assigned to the Philippine National Police (PNP) Crime Laboratory in Camp Crame,

Quezon City; Lauriano de Guzman (TSN, April 8, 1997), a member of the Barangay Security Force of Lower Bicutan, Tagig; Jurita Olvido (TSN, July 15, 1997), a social worker connected with the Department of Social Welfare and Development (DSWD); Marlyn R. Perlas (TSN, August 12, 1997), the private complainant; and Emelyn R. de los Reyes (TSN, September 17, 1997), sister of Marlyn's mother, Edna.

Their testimonies establish the following facts.

Private complainant Marlyn R. Perlas was born on March 1, 1982 to spouses Marlon Perlas and Edna Roque. However, Marlyn's parents have long been separated from each other. In fact, since 1993, her mother started living-in with appellant Ricardo de Guzman, whom Marlyn fondly called "Papa." Together with Marlyn's younger brother and sister, the five (5) of them occupied a house located at Signal Village, Tagig, Metro Manila. (TSN, August 12, 1997, pp. 3-6.)

Sometime in the morning of December 1995, Marlyn, Maria (Marlyn's younger sister) and appellant were all in their house. Since Maria was deeply asleep, appellant took advantage of the situation. Appellant pointed a kitchen knife at Marlyn's neck and thereafter removed Marlyn's shorts and panty. Appellant then took off his shorts and brief and inserted his penis into Marlyn's vagina. Marlyn felt pain. (TSN, August 12, 1997, pp. 6-8.)

The sexual abuse was repeated in the evening of that same day. Appellant ordered Marlyn's brother to go out of the house. Thereafter, appellant threatened Marlyn with the same kitchen knife and raped her. (TSN, August 12, 1997, pp. 8-9.)

When she was being raped by appellant, Marlyn did not shout for help because she was afraid of appellant who was pointing a kitchen knife at her. Also, since appellant threatened to kill all of them, Marlyn did not report the rape incidents to her mother who returned the following day from work. (TSN, August 12, 1997, pp. 9-10.)

Sometime in the morning of October 2, 1996, Marlyn and appellant were the only persons left inside the house. Maria was then playing outside the house, while Marlyn's younger brother had gone to the province. On the other hand, Marlyn's mother had just left the house. Appellant again took advantage of this situation and sexually abused Marlyn. Appellant inserted his penis into Marlyn's vagina. Marlyn did not shout for help because appellant, who was holding a knife, threatened her life. (TSN, August 12, 1997, pp. 10-12.)

Three days later, Marlyn wanted to sleep in the house of her landlady who asked Marlyn if something had happened to her. This prompted Marlyn to tell her about the aforesaid rape incidents committed against her by appellant. (TSN, August 12, 1997, pp. 12-13, 17-18.)

On October 5, 1996, the rape incidents were reported to the Barangay Security Force of Lower Bicutan, Tagig. Acting on the said report,

Lauriano de Guzman and Rolando Reyes invited appellant to the barangay hall where appellant was identified by Marlyn as the sexual assailant. Thereafter, appellant was brought to the Tagig police station. (TSN, April 8, 1997, pp. 3-4, Exhibit B.)

On October 6, 1996, Marlyn was examined by Dr. Noel Martinez, a Medico-Legal Officer assigned at the PNP Crime Laboratory, who found out that Marlyn's hymen had deep healed laceration at 6:00 o'clock position, which laceration, according to Dr. Tomas Suguitan, also of the same office, could have been caused by the insertion of a blunt object like a penis. Since the injury could be healed in about 3 to 5 days, Dr. Suguitan declared that the rape could have been committed on October 2, 1996. (TSN, February 18, 1997, pp. 4-8, Exhibit A.)

On October 7, 1996, the assistance of Jurita Olvido, a DSWD social worker, was sought by the Tagig police authorities in connection with the sexual assaults on Marlyn. Jurita found out that Marlyn had low intelligence quotient, while Marlyn's mother, Edna, was illiterate. This prompted Jurita to assist the two in preparing sworn statements before the police authorities. (TSN, July 15, 1997, pp. 3-6; Exhibits C and D.)

That Marlyn had poor mental development was corroborated by Emelyn R. de los Reyes, the sister of Marlyn's mother. According to Emelyn, Marlyn acted like a 7 or 8-year old girl even if Marlyn was already 15 years old. (TSN, September 17, 1997, pp. 4-11.)

(Rollo, pp. 74-78.)

Upon such bases and findings, the trial court, the Honorable Gregory S. Ong, presiding, rendered the judgment of conviction, disposing thusly:

WHEREFORE, judgment is hereby rendered finding accused RICARDO de GUZMAN GUILTY beyond reasonable doubt of two (2) counts of the crime of rape in criminal Cases Nos. 110978-H and 110979-H, and , for each case, sentencing said accused to: a) suffer the death penalty; b) suffer the accessory penalties consequent thereto; c) pay the private offended party the sum of Fifty Thousand Pesos (P50,000.00) by way of civil indemnity, or a total of One Hundred Thousand Pesos (P100,000.00) for both cases; and d) pay the costs.

SO ORDERED.

(Record, pp. 257-258.)

In the automatic review of this case, accused-appellant assigns the lone error that:

THE TRIAL COURT GRAVELY ERRED IN IMPOSING TWO (2) DEATH PENALTIES UPON ACCUSED-APPELLANT DESPITE FAILURE OF THE PROSECUTION TO ALLEGE IN THE TWO (2) INFORMATIONS THAT ACCUSED-APPELLANT IS THE COMMON-LAW SPOUSE OF THE VICTIM'S PARENT.