

## EN BANC

[ G.R. No. 137889, March 26, 2001 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO DELOS SANTOS, ACCUSED-APPELLANT.**

### D E C I S I O N

**MELO, J.:**

A father who ravages his own daughter reduces himself to the level of a beast and forfeits his membership in the world of civilized men.

Nenita de los Santos was only 14 years old when her father, accused-appellant Romeo de los Santos, sexually abused her. She narrated that on July 31, 1997 at around 9 o'clock in the evening while she was about to go to sleep, her father suddenly approached her, held her waist and poked a knife at her side, threatening to kill her if she tells anyone what he was about to do to her. Then her father boxed her on the abdomen, inflicting on her so much pain and causing her to fall down on the floor. While in such a position, her father removed her short pants and panties even while she resisted; but her father overpowered her and he succeeded in having sexual intercourse with her. Accused-appellant stopped violating his daughter only after he has satisfied his lust. Nenita cried the whole night through and the days after because of the intense pain in her private part, but more so because of the betrayal of the man who gave her life and whom she trusted would protect and shield her from life's sorrows and pains. To add ignominy to his bestial acts, accused-appellant not only violated his daughter once but several times.

Out of shame and fear for her life, Nenita suffered in silence. She never told anyone, not even her mother, about the horrible ordeal she went through in the hands of her own father. But after several days, she mustered enough courage and went to the police to report the incident. She also submitted to a physical examination to substantiate her allegations. The necessary information for multiple rape was filed against accused-appellant.

Upon arraignment, accused-appellant pleaded not guilty to the crimes charged.

The prosecution accordingly presented as its first witness Dr. Felma Caybot, the physician who examined the victim. Dr. Caybot testified, among other things that: (1) she was able to insert her two fingers in Nenita's private part with minimal resistance and there was not even a change in the facial expression of the patient, and (2) in the examination of the hymen of the patient, she found healed lacerations at 6 o'clock and 3 o'clock positions (tsn, p. 3, July 7, 1998).

The prosecution then called Nenita as its next witness. Nenita had barely started her narration of the incidents when accused-appellant manifested in court that he was changing his plea from "not guilty" to "guilty" provided the Information is amended

to a single charge of rape. The trial court put accused-appellant on the witness stand, and after seemingly satisfying itself that accused-appellant understood the full consequences of his plea of guilty, the court *a quo* allowed the amendment of the Information to one charge of rape and changed accused-appellant's plea of "not guilty" to "guilty".

Nenita continued with her testimony; after which, the prosecution rested its case. When it was accused-appellant's turn to present his evidence, he manifested to the court that he had no evidence to present.

On February 10, 1999, the court *a quo* convicted accused-appellant of the crime of rape and imposed on him the supreme penalty of death, thusly:

**WHEREFORE,** the Court finds accused ROMEO DELOS SANTOS, GUILTY beyond reasonable doubt as principal of the crime of RAPE as defined and penalized under Article 335 of the Revised Penal Code as amended by R.A. No. 7659, Sec. 11 thereof and hereby imposes upon the accused Romeo delos Santos the penalty of DEATH; to pay the victim Nenita delos Santos civil indemnity in the amount of FIFTY THOUSAND (P50,000.00) PESOS and the costs.

The death penalty having been imposed by this Court, let the records of the case together with the transcript of stenographic notes be transmitted to the Supreme Court by way of an automatic review pursuant to Article 47 of the Revised Penal Code, as amended by Section 22 of Republic Act No. 7659.

SO ORDERED.

(pp. 72-73, Records.)

In this automatic review, accused-appellant faults the trial court "in not applying the safeguards to a plea of guilty to a capital offense set forth under Section 3, Rule 116, 1985 Revised Rules on Criminal Procedure" (Brief for the Accused-Appellant, Rollo, p. 29).

We find the contention partially meritorious, but not sufficient to warrant the reversal of the finding of guilt by the court *a quo*.

Section 3, Rule 116 of the 1985 Rules on Criminal Procedure (the Rule then prevailing when the instant crime was committed and tried, and which remains unamended in the present 2000 Rules) states the procedure to be followed where the accused, with the assistance of counsel, voluntarily pleads to a capital offense:

*Sec. 3. When an accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence in his behalf. (1985 Rules on Criminal Procedure)*

Thus, where the accused enters a plea of guilty to a capital offense, the trial court is called upon to observe the following procedure: the court shall conduct a searching inquiry into the voluntariness and the accused's full comprehension of the