

## SECOND DIVISION

[ G.R. No. 128372, March 12, 2001 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
REMEGIO DELA PEÑA Y BAGUIO, ACCUSED-APPELLANT.**

### D E C I S I O N

**QUISUMBING, J.:**

On appeal is the decision dated December 11, 1996 of the Regional Trial Court of Urdaneta, Pangasinan, Branch 49, convicting appellant of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua* and to indemnify the victim the amount of P50,000.00 as moral damages.

Appellant Remegio dela Peña is a 63 year-old farmer residing at Casantiagoan, Laoac, Pangasinan. He stands accused of raping his niece, Vilma C. Lapeña, then 11 years old and a Grade V student.

The facts, based on the records, are as follows:

Sometime in February of 1989, in Casantiagoan, Laoac, Pangasinan, Vilma slept in the house of appellant upon the invitation of his granddaughter, Rochelle. She slept in a room beside Rochelle and appellant's wife. At around 9:00 to 10:00 P.M., appellant's wife went downstairs. Appellant went inside the room and placed himself on top of Vilma. When she awakened, appellant told her to keep quiet or he would kill her. She tried to push him away but she could not budge him. That same night, she went home and sneaked in without her parents' knowledge.<sup>[1]</sup>

Two days later, at around 10:00 P.M., she went to a store to buy some salt upon the order of her mother. She was alone and there were no people in the street. On her way home, appellant blocked her way, pulled her hands, and poked a kitchen knife at her neck. He brought her to the back of his house, some 30 to 40 meters from her house. He placed her on the ground while still holding the knife, threatened her not to shout or he would kill her, removed her shorts and panty and spread her legs. Appellant opened the fly of his trousers and brought out his organ and inserted his penis in her vagina. She felt pain and blood on her vagina. Afterwards, he threatened her not to tell anyone or else he would kill her entire family.<sup>[2]</sup>

Some two years after the incident, Vilma went to Manila to work as a househelper. In the meantime, appellant had a fight with Vilma's family. According to Vilma's mother, Remegio tried to abuse his own granddaughter, Rochelle, so she wrote a letter to Vilma's father. This angered appellant. He then tried to evict them from his land which Vilma's family occupied, but he failed. One time, while he was drunk, he shouted "*Okin nayo. Linukoc met laeng ni anak yo nga Vilma!*" ("Vulva of your mother, I just made a fool of your daughter Vilma anyway!") Alarmed, the victim's mother replied, *Why Manong, why did you abuse my daughter?*" Remegio answered,

*"Yes. Even if you will bring this matter to the authorities, I will answer for it."* Vilma's parents went to Manila to fetch Vilma in September 1994. When confronted, Vilma admitted that appellant raped her five years ago. She explained that she was afraid to tell anyone because appellant threatened to kill her entire family. Assisted by her parents, Vilma filed a criminal complaint with the police of Laoac, Pangasinan.<sup>[3]</sup>

On April 4, 1995, the following Information<sup>[4]</sup> for rape was filed against appellant:

The undersigned, upon sworn complaint previously filed by the complainant duly assisted by her parents, accuses REMEGIO DELA PEÑA y Baguio of the crime of RAPE, committed as follows:

That sometime in the month of February, 1989, in the evening, at barangay Casantiago Norte, municipality of Laoac, province of Pangasinan and within the jurisdiction of this Honorable Court, the said accused, armed with a knife and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously had carnal knowledge with the complainant VILMA C. LAPEÑA against her will.

CONTRARY to Article 335, Revised Penal Code.

Urdaneta, Pangasinan, March 27, 1995.

(SGD.) JORITO C. PERALTA  
2<sup>nd</sup> Asst. Prov'l. Prosecutor

Upon arraignment, appellant entered a plea of not guilty.<sup>[5]</sup>

During trial, the prosecution presented as witnesses (1) the victim, Vilma; (2) her mother, and (3) Dr. Alexis Mary Arenas Chuson, the physician who examined the victim on September 20, 1994 or nearly five (5) years after the rape incident. Dr. Chuson testified that the hymen was already broken, and there were no signs of external physical injuries.<sup>[6]</sup>

The defense presented the following witnesses (1) appellant, Remegio dela Peña; (2) his wife, Maria Rosquita, and (3) his neighbor, Marcelino Aquino.

Appellant's defense is denial. He claims the victim never slept over at his house. He contends that he was charged with rape because he was evicting the victim's family from his land. He got angry at the victim's mother because she accused him of abusing his own granddaughter, Rochelle.<sup>[7]</sup>

Maria Rosquita likewise testified that the victim never slept over in their house.<sup>[8]</sup>

Marcelino Aquino testified that from August to November of 1995, Vilma and he were live-in partners. He got rid of her because she brought him bad luck, especially when she lost the necklace he gave her. To his knowledge, the victim never had sexual intercourse with anyone. He himself could not have sexual intercourse with her because he just had a prostate gland operation.<sup>[9]</sup>

On rebuttal, Vilma affirmed that she did live-in with Aquino. However, she claimed that she separated from him because he once pointed a shotgun at her. They also had an argument about their joint account. Eventually, they parted ways when he gave her P5,000.00 from their savings.<sup>[10]</sup>

On December 11, 1996, the trial court rendered a decision<sup>[11]</sup> convicting appellant of the crime of rape, thus:

WHEREFORE, in view of all the foregoing, the Court finds that the prosecution has proven beyond reasonable doubt the guilt of the accused as charged. Accordingly, the accused is hereby sentenced to suffer the penalty of RECLUSION PERPETUA. The accused is further ordered to indemnify the victim in the sum of P50,000.00 as moral damages.

IT IS SO ORDERED.

Hence, the present appeal. Appellant claims that - <sup>[12]</sup>

I. THE COURT A QUO ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME OF RAPE, HAS BEEN PROVEN BY PROOF BEYOND REASONABLE DOUBT.

II. THE COURT A QUO ERRED IN ORDERING ACCUSED-APPELLANT TO INDEMNIFY THE VICTIM IN THE AMOUNT OF P50,000.00 AS MORAL DAMAGES.

In his brief,<sup>[13]</sup> appellant assails the credibility of the victim considering that it took her five (5) years to report the incident to her parents and the authorities. Further, he claims that the victim had a bad reputation considering that at 17 years old, she lived-in with a 72 year-old pensioner. He claims that it was not possible for him to rape the victim at the back of his house. He would have taken her to a much further place. Lastly, he denies boasting, while in a fit of drunkenness, that he abused the victim. According to him, no man in his right senses would admit to raping a niece.

The Office of the Solicitor General, for the State, contends that the delay in reporting the rape was due to appellant's threats on the life of the victim and her family. In fact, the victim had no intention of revealing the rape had appellant not first revealed it to her parents. In view of the positive allegations of the victim, the alleged land feud which appellant claims is the motive for the filing of the case is too shallow to merit consideration. In view of the positive testimony of the victim and her witnesses, the OSG prays for the affirmance of appellant's conviction. In addition, the OSG recommended the award of P50,000.00 as civil indemnity for the victim.

The main issue here concerns the credibility of witnesses. Appellate courts in general will not disturb the findings of the trial court on this score for the reason that it is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying during the trial.<sup>[14]</sup> An exception is when the trial court has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.<sup>[15]</sup> In this case, the trial court found the victim's testimony candid and consistent even under