

EN BANC

[G.R. Nos. 139445-46, June 20, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODRIGO GONZALES Y OPENA, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

These cases are here on automatic review of the decision^[1] of the Regional Trial Court, Branch 170, Malabon, Metro Manila, finding accused-appellant Rodrigo Gonzales guilty of two counts of rape and sentencing him to suffer the penalty of death for each count, to pay complainant the amounts of P150,000.00 as civil indemnity, P100,000.00 as moral damages, and P70,000.00 as exemplary damages, and to acknowledge and support the child born of complainant Remelie Tria.

Except for the dates of the commission of the rapes, the two informations against accused-appellant alike read:

That on or about [date],^[2] in the Municipality of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the stepfather of Remelie Tria y Simeon, a minor of 16 years old, with lewd design, and exercising ascendancy over said Remelie Tria y Simeon and by means of force, violence and intimidation, wilfully, unlawfully and feloniously did, then and there, have sexual intercourse with Remelie Tria y Simeon against her will and without her consent.^[3]

Accused-appellant pleaded not guilty to the charges. Thereupon the two cases were consolidated and jointly tried.

The prosecution presented evidence showing the following:

Complainant Remelie Tria is the daughter of Teresita Simeon, while accused-appellant Rodrigo Gonzales is Teresita Simeon's common-law husband. On January 7, 1995, at around 2:00 in the morning, while complainant Remelie Tria was alone sleeping on the second floor of their house in Sitio 6, Barangay Catmon, Malabon, she felt someone touching her private parts. When she opened her eyes to find out who it was, she saw accused-appellant, her mother's common-law husband. Remelie sat up and threatened to report accused-appellant to her mother if he did not stop molesting her. This angered accused-appellant who boxed complainant and continued making advances on her. Complainant resisted but she was pinned down on the bed and accused-appellant succeeded in ravishing her. Because of the threat that accused-appellant would kill her and her mother if she reported the matter to

anyone, complainant kept the incident to herself.^[4]

More than two years later, on November 1, 1997, at around 1:30 in the morning, while complainant was sleeping inside her room, she was awakened by the sound of an object falling on the floor. When she tried to see what it was, she found that accused-appellant was in the room. The latter held her hands, undressed her, and forced himself on her. Accused-appellant warned Remelie not to report the incident to anyone or he would leave her mother and her siblings with no one to support them.^[5]

Later, Remelie decided to tell her mother of accused-appellant's sexual molestation. As a result, her mother drove accused-appellant from their house and reported the matter to their barangay officials. Somehow, however, accused-appellant was able to return to their household.^[6]

On November 25, 1997, complainant watched on television about *Bantay Bata*, the program for abused children of the Department of Social Welfare and Development. She went to the DSWD and made a complaint against accused-appellant. A DSWD social worker took her to the police station where complainant executed a complaint-affidavit against accused-appellant. A few days later, members of the Malabon police arrested accused-appellant.^[7]

On November 27, 1997, Dr. Bernadette Madrid, head of the Child Protection Unit of the Philippine General Hospital, examined complainant. Her findings, contained in a report, are as follows:

FINDINGS

Well nourished, well developed, ambulant, cooperative,

Head & Neck, Chest, Lungs, Abdomen: Normal

Extremities: Normal

GENITAL EXAMINATION:

Hymen: Estrogenized with a hymenal opening of 12 mm.
Healed laceration at 5 o'clock position and deep notch at 8 o'clock position.

IMPRESSION:

Findings of the genital examination is consistent with penetration.^[8]

Dr. Madrid reiterated in court her findings. She stated, however, that she could not tell when the genital lacerations were inflicted.^[9]

On August 6, 1998, or about nine months after the second rape, complainant gave birth to a baby boy.^[10]

Accused-appellant denied having raped complainant. He claimed that in the early morning of January 7, 1995 and November 1, 1997, he was at the dumpsite in Catmon, Malabon scavenging for garbage with several individuals whose names he allegedly did not know.^[11] He admitted, however, that the Catmon garbage dumpsite is only about a kilometer away from his house and that the distance could be traversed in 15 minutes by foot. Accused-appellant claimed that complainant could possibly have harbored resentment against him because he reported her to her mother for going to the house of her boyfriend for which reason complainant's mother scolded her.^[12]

On July 16, 1999, the trial court rendered its decision finding accused-appellant guilty of two counts of rape. The dispositive portion of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. In Criminal Case No. 18899-MN, the Court finds accused Rodrigo Gonzales y Opena guilty beyond reasonable doubt of the crime of RAPE penalized under Art. 335 of the Revised Penal Code as amended by R.A. 7659 and hereby sentences him to suffer the penalty of DEATH; to pay Remelie Tria the amount of P75,000.00 as civil indemnity, P50,000.00 as moral damages and P35,000.00 as exemplary damages plus the cost of the suit;
2. In Criminal Case No. 18900-MN, the Court finds accused Rodrigo Gonzalez y Opena guilty beyond reasonable doubt of the crime of RAPE (Republic Act No. 8353) and hereby sentences him to suffer the penalty of DEATH; to pay Remelie Tria the amount of P75,000.00 as civil indemnity, P50,000.00 as moral damages and P35,000.00 as exemplary damages plus the cost of the suit.

Further, accused Rodrigo Gonzales y Opena is hereby ordered to acknowledge the filiation of [the] victim's offspring and to give support, the amount of which shall be determined after due notice and hearing.^[13]

Hence, this appeal. Accused-appellant contends tha —

THE TRIAL COURT ERRED IN IMPOSING THE DEATH PENALTY SINCE THE CORRECT RELATIONSHIP OF THE ACCUSED WITH THE COMPLAINANT WAS NOT PROPERLY ALLEGED IN THE INFORMATIONS.^[14]

In his reply-brief, accused-appellant alleged another ground for the modification of the penalty imposed on him, to wit: that the prosecution has allegedly failed to sufficiently prove that complainant was less than 18 years of age at the time of the

commission of the alleged rapes.^[15]

Considering that these cases are before the Court on automatic review, we will first consider whether the evidence is sufficient to support the trial court's finding that accused-appellant is guilty of the two counts of rape. Only if we find the evidence to be sufficient will we consider accused-appellant's contention relative to the imposition on him of the death penalty for each count of rape.

In reviewing convictions for rape, this Court has been guided by the following principles: (1) that an accusation for rape is easy to make, difficult to prove, and even more difficult to disprove; (2) that in view of the intrinsic nature of the crime, where only two persons are usually involved, the testimony of the complainant must be scrutinized with utmost caution; and (3) that the evidence for the prosecution must stand on its own merits and cannot draw strength from the weakness of the evidence of the defense.^[16]

The Court has carefully gone over the records of these cases and finds nothing to justify a reversal of the trial court's findings. The prosecution was able to prove all the elements of rape committed through force or intimidation. In a clear, straightforward, and unaffected manner, complainant Remelie narrated in the trial court how her surrogate father twice succeeded in raping her through force and intimidation, let alone because of his moral ascendancy over her. Her testimony was corroborated by the results of the medical examination conducted by Dr. Madrid.

Accused-appellant relies solely for his defense on denial and alibi. However, alibi cannot prevail over complainant's positive identification of accused-appellant.^[17] Moreover, for alibi to prosper, it must be shown that it was impossible for the accused to have been present at the scene of the crime at the time of its commission.^[18] In these cases, accused-appellant himself admitted that the garbage dumpsite where he allegedly was at the time of the commission of the rapes is only a kilometer away from his house and it would take only 15 minutes to negotiate the distance by foot. Thus, even if he was in that place at the time material to these cases, it was not impossible for him to go home and commit the crimes, and then be back at the dumpsite. It is noteworthy that although accused-appellant said he was with other people at the dumpsite, he did not present any of them to support his alibi.

As for accused-appellant's contention that the charges brought against him were trumped up, the trial court correctly gave no weight to the same. As the trial court noted:

The Court does not believe that Remelie would fabricate a story of defloration against her own stepfather, allow her private parts to be examined, (Exh."A" and "A-3"), and make public her painful and humiliating experiences which are better kept in secret or forgotten just to get even with the accused for telling her mother about her coming to the house of her boyfriend . . . [were it not for] her desire to obtain justice for the grievous wrongs committed against her.^[19]