

EN BANC

[G.R. Nos. 138308-10, September 26, 2001]

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

D E C I S I O N

PER CURIAM:

These cases are here on automatic review from the decision^[1] of the Regional Trial Court, Branch 40, Palayan City, finding accused-appellant guilty of three counts of rape and sentencing him to death for each count of the crime and ordering him to pay complainant Maricel Santos y Gallema P50,000.00 as compensatory damages, P50,000.00 as moral damages, and P30,000.00 as exemplary damages.

Three separate informations were filed against accused-appellant which are similarly worded except with reference to the dates of the commission of the crimes, to wit:

"That on or about the 12th day of August, 1995,^[2] at about 10:00 o'clock in the evening, in Barangay San Vicente, Municipality of Laur, Province of Nueva Ecija and within the jurisdiction of this Honorable court, the above-named accused, with lewd design, [through] force and intimidation and taking advantage of nighttime, did then and there, willfully, unlawfully and feloniously have carnal knowledge of his daughter, Maricel Santos, fourteen years of age, against her will and to her damage and prejudice.

"CONTRARY TO LAW."

Accused-appellant pleaded not guilty to the crimes charged, whereupon the cases were consolidated and jointly tried.

The prosecution presented evidence showing the following:

Maricel Santos is the oldest of three daughters of accused-appellant Pablo Santos and Anastacia Santos y Gallema. In 1993, Anastacia went to Abu Dhabi to work as a domestic helper, leaving her three daughters to the care of accused-appellant.^[3] She came home for a vacation sometime in July and stayed here up to September 5, 1995.^[4]

Late in the evening of August 12, 1995, Maricel, then 14 years old, was sitting on a "*bangkito*" outside the room where she and her sisters usually slept on the second story of their house. She saw her father, herein accused-appellant, come upstairs. Suddenly, accused-appellant embraced Maricel and kissed her on the lips and neck

while touching her private parts. Maricel struggled as she pleaded with her father "*Huwag po, huwag po.*" ("Please don't, please don't.") But accused-appellant did not heed her pleas. He laid her on the floor, undressed her, and then went on top of her. Maricel tried to push accused-appellant away but he threatened to kill her if she persisted in doing so. Maricel could not remember how long accused-appellant lay on top of her but she felt pain and her vagina bled as accused-appellant succeeded in raping her. She continued to plead with her father, "*Huwag po, huwag po*" ("Please don't, please don't") but her pleas fell on deaf ears. After accused-appellant was through, accused-appellant left and went to sleep in another part of the house, but not after he had warned Maricel that he would kill her if she told anyone what had happened that night. At the time of the incident, only Maricel and her two younger sisters, Mary Rose and Malou, who were both asleep inside the room, were in their house. The records do not show the whereabouts that night of Maricel's mother, who was then spending her vacation in the country.

Knowing accused-appellant's bad temper and having been warned not to tell anybody what accused-appellant had done to her, Maricel kept her silence. However, her ordeal on August 12, 1995 was not the last. It was repeated one evening in September 1995. While Maricel was watching television, accused-appellant embraced and kissed her. As accused-appellant started to remove her clothing, Maricel pleaded with his father, but, like the first time, accused-appellant was unmoved by his daughter's pleas as he succeeded in raping her.

Accused-appellant raped Maricel for the third time late in the evening of December 18, 1995. That night, as Maricel lay asleep beside her two sisters inside their room, she was suddenly awakened when accused-appellant lay beside her. Accused-appellant embraced and kissed her and then forced himself on her. She resisted but she was slapped by accused-appellant several times so that eventually she gave up.

[5]

The following day, December 19, 1995, Maricel decided to report the matter as she could no longer endure her suffering at the hands of accused-appellant. On that day, accused-appellant kicked her. Maricel asked her younger sister, Mary Rose, to call their maternal grandmother, Carmen Gallema, so that she could tell the latter about her ordeal. Maricel met Carmen in front of the house of another daughter of Carmen. Maricel tearfully told her grandmother, "*Inang, binaboy po ako ni Tatay.*") ("Inang, Father raped me.") Carmen took immediate action. She asked someone to fetch accused-appellant's parents in Bulacan so that they could take him home because she feared that her sons would kill him for what he had done to Maricel. Carmen took Maricel and her two sisters into her custody after accused-appellant was taken to Bulacan by his parents.[6]

On January 2, 1996, Carmen and Maricel reported the rapes to the police of the Municipality of Laur.[7] Maricel wrote Anastacia in Abu Dhabi to tell her about the incident. As her mother wanted, Maricel filed criminal charges against accused-appellant.

On January 2, 1996, Maricel was examined by Dr. Felimon Veneracion, the Rural Health Physician of the municipality. Dr. Veneracion did not find any sign of physical injury on Maricel's body. He concluded, however, that Maricel was no longer a virgin because of the presence of an old healed laceration on her hymen at the 3 o'clock

position.^[8] He explained that generally there are several causes for hymenal lacerations, such as the insertion of a hard blunt object in the vagina, like an erect penis. Although he could not estimate the time when the laceration was inflicted, considering Maricel's disclosure and the interval between the time of examination and the dates of the alleged commission of the crimes, Dr. Veneracion said that it was possible that the laceration was caused by sexual abuse.^[9]

Accused-appellant denied the allegations against him. He claimed that Carmen, his mother-in-law, fabricated the rape charges against him so that she would receive the monthly remittances of P3,000.00 which his wife, Anastacia, was sending from Saudi Arabia. He testified that Carmen had always disapproved of him because of his bad temper when drunk and that she resented him more when Anastacia had to work abroad to support their family. He claimed that since August 1995 Carmen had been trying to cause their separation as husband and wife. On the other hand, accused-appellant claimed that Maricel was sore at him because he reprimanded her when he caught her writing a love letter to a boyfriend and because, on December 19, 1995, he kicked her for ignoring his question as to why she was sitting in their backyard with her head resting on her hand ("*nakatalungko*").^[10] According to accused-appellant, it was impossible for him to have raped Maricel on August 12, 1995 and in September of that year because his wife, Anastacia, was then home from her work abroad at that time.^[11]

On March 23, 1999, the trial court rendered its decision, the dispositive portion of which reads:

"WHEREFORE, this Court finds the accused, Pablo Santos, guilty beyond reasonable doubt of multiple rape committed on August 12, 1995, September, 1995 and December 18, 1995 upon his own daughter, Maricel Santos, and hereby sentences him to suffer the penalty of DEATH for each of the three offenses in Criminal Case Nos. 0673-P, 0674-P, and 0675-P; to indemnify the private offended party in the amount of P50,000.00 as compensatory damages; the further amounts of P50,000.00 by way of moral damages and P30,000.00 by way of exemplary damages. The accused is further ordered to pay the costs of the suits in all these cases."^[12]

Hence, this appeal. Accused-appellant makes the following assignment of errors:

"I. THAT THE LOWER COURT ERRED IN NOT ACQUITTING THE APPELLANT FOR INSUFFICIENCY OF EVIDENCE AND/OR REASONABLE DOUBT.

"II. THAT THE LOWER COURT ERRED IN SENTENCING APPELLANT TO SUFFER THE PENALTY OF DEATH FOR EACH OF THE ABOVE-ENTITLED CRIMINAL CASES."

Accused-appellant argues that Maricel's claim is belied by the medical report, which shows that there was no sign of physical injuries found on her body, and by the