

EN BANC

[G.R. Nos. 133583-85, February 20, 2002]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROBERTO BERNAS
Y NACARIO, APPELLANT.**

DECISION

PANGANIBAN, J.:

When the accused pleads guilty to the charge, both the trial judge and the defense counsel must observe the stringent requirements of the Rules of Court and applicable jurisprudence in order to safeguard the constitutional rights of the accused. In the present case, the defense counsel not only failed to protect the rights of his client; worse, he even advised him to plead guilty to the Information that had failed to allege the essential elements of qualified rape. As a consequence, appellant was wrongly sentenced to death.

The Case

For automatic review by this Court are two related Decisions,^[1] both dated February 27, 1998, promulgated by the Regional Trial Court (RTC) of Libmanan, Camarines Sur (Branch 57), in (A) Criminal Case No. L-1888 (which we will consider henceforth as Criminal Case No. L-1889, because it is clear from the subject Decision that the court *a quo* inadvertently interchanged the case numbers; it had meant to convict appellant under the latter and to acquit him under Criminal Case No. L-1888)^[2] and (B) Criminal Cases Nos. L-1893 and L-1896, finding Roberto Bernas y Nacario guilty beyond reasonable doubt of three counts of rape.

The decretal portion of the Decision relating to Criminal Cases No. L-1889 (as well as L-1888 and L-1890) reads as follows:

Criminal Case No. L-1889

"WHEREFORE, in view of the foregoing, in Criminal Case No. L-188^[8] and Criminal Case No. L-1890, respectively, the prosecution having failed to establish sufficient evidence to prove the guilt of the accused beyond reasonable doubt is ACQUITTED of the crime as charged.

"In Criminal Case No. L-188^[9], the Court is morally convinced that the accused Roberto Bernas is GUILTY [b]eyond [r]easonable [d]oubt of the crime of [r]ape as defined and penalized under Article 335 of the Revised Penal Code as amended by Republic Act No. 7659 and he is hereby sentenced to suffer the penalty of DEATH and he is likewise ordered to indemnify the offended party, [in] the amount of [f]ifty [t]housand [p]esos, [t]en [t]housand [p]esos as moral damages and [f]ive [t]housand [p]esos as exemplary damages.

"SO ORDERED."^[3]

The disposition in Criminal Cases Nos. L-1893 and L-1896 (as well as L-1894 and L-1895) is worded in this wise:

Criminal Case Nos. L-1893 to L-1896

"WHEREFORE, in view of the foregoing, in Criminal Case No. L-1894 and in Criminal Case No. L-1895, respectively, the prosecution having failed to establish sufficient evidence to prove the guilt of the accused beyond reasonable doubt, the accused Roberto Bernas is ACQUITTED of the crime as charged.

"In Criminal Case No. L-1893 and Criminal Case No. L-1896, the Court is morally convinced that the accused Roberto Bernas is GUILTY [b]eyond [r]easonable [d]oubt of the crime of [r]ape, as defined and penalized under Article 335 of the Revised Penal Code as amended by Republic Act No. 7659 and he is hereby sentenced to suffer the penalty of [d]eath for two counts and he is likewise directed to indemnify the offended party, [in] the amount of [o]ne [h]undred [t]housand [p]esos, [t]en [t]housand [p]esos as moral damages and [f]ive [t]housand [p]esos as exemplary damages.

"SO ORDERED."^[4]

Assistant Provincial Prosecutor Esperidion R. Solano charged appellant with rape in seven separate Informations. The latter was acquitted under four Informations and convicted under the other three, which are reproduced hereunder:

"Crim Case No. L-188[9]

"That on or about the [1st] day of July, 1996 at about 8:00 o'clock in the evening in Barangay Tible, Municipality of Sipocot, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who is the father of herein private complainant, with lewd and unchaste design, did then and there wilfully, unlawfully and feloniously have carnal knowledge of Evelyn Bernas y Tolentino, his 12 year old daughter, and to her damage and prejudice.^[5]

Crim. Case No. L-1893

"That on or about May 7, 1996, more or less 10:00 o'clock in the evening, at Barangay Tible, Municipality of Sipocot, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his daughter Mary Jane^[6] Bernas y Tolentino, a minor against her will and consent and to her damage and prejudice.^[7]

Crim. Case No. L-1896

"That on or about June 10, 1996, more or less 9:00 o'clock in the evening, at Barangay Tible, Municipality of Sipocot, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with his daughter Mary Jane Bernas y Tolentino, a minor, against her will and consent and to her damage and prejudice."^[8]

When arraigned on the charges,^[9] appellant, with the assistance of counsel,^[10] pleaded not guilty. Thereafter, the prosecution presented its evidence in Criminal Cases Nos. L-1888, L-1889 and L-1890. After the prosecution rested its case, appellant -- through his counsel -- manifested that he did not want to present any evidence and was submitting the case for decision, based on the evidence presented by the prosecution. After being satisfied that the waiver was voluntary and intelligent, the RTC considered the cases submitted for decision.

Thereafter, the prosecution moved to reopen the case. It reasoned that due to inadvertence it had failed to present the Birth Certificate of the victim, Evelyn Bernas, a document that was necessary to prove the minority of the victim. Over the objection of the defense counsel, the court *a quo* granted the Motion to Reopen the case. The prosecution offered in evidence the Marriage Contract of the parents of the victim as well as her Birth Certificate. These were admitted in evidence. Thereafter, the case was submitted for decision.

In Criminal Cases Nos. L-1893 and L-1896, before the prosecution presented its evidence, appellant -- through his counsel -- moved for the change of his former plea of not guilty to that of guilty, a Motion which the RTC granted. Appellant was thus re-arraigned, and he pleaded guilty to the criminal charges. Considering the severity of the charges, the trial court directed the prosecution to present further evidence to determine the precise degree of appellant's culpability.

As in the three prior cases, the defense waived its right to present evidence in the four later cases and submitted them for decision based on the evidence presented by the prosecution. The RTC then rendered the assailed Decisions.

The Facts

Version of the Prosecution

In its Brief,^[11] the Office of the Solicitor General presented the facts as follows:

**"For: G.R. No[s]. 133583-133585
(Criminal Case No[s]. L-1888, L-1893 and L-1896)**

"On January 21, 1978, appellant Roberto Bernas and Celerina Tolentino were married in Sipocot, Camarines Sur. On January 10, 1981, the couple's first child named Mary Jane (or Marigen) was born. Their second child Evelyn was born on January 17, 1983. Subsequently, they had two (2) more children named Ginalyn and Joel.

"Shortly thereafter, appellant and his wife Celerina separated. Celerina

took her daughter Evelyn with her and lived with her in Taguig, Rizal. Subsequently, Celerina brought Evelyn back to Bicol and left her to live with appellant and their other children at Brgy. Tible, Sipocot, Camarines Sur.

**"For: G.R. No. 133583
(Criminal Case No. L-1888 [should be L-1889])**

"On July 1, 1996, Evelyn then thirteen (13) years old, was living alone with her father at his house at Brgy. Tible, Sipocot, Camarines Sur as her other siblings had already r[u]n away from home. At 6:30 in the evening she went to sleep. Eventually, she was roused from sleep as she felt that appellant, her father, was on top of her and consequently, she could not move. At that time she noticed that her panty and shorts had been removed but her t-shirt was left on her and that her father was pointing his penis to her vagina. Appellant then inserted his penis into her vagina and she was resisting him but he held her hands and succeeded in penetrating her which caused her to feel pain. Thereafter, appellant removed his penis from her vagina, went to sleep and left Evelyn who was crying.

"She woke up at 4:00 o'clock A.M. of the following day while appellant was still sleeping. She had to go to her class as she was then still in Grade Five. Evelyn returned home at 4:00 o'clock P.M. and cooked supper while her father was not there. Thereafter, she took her clothes, ran away and slept at the house of her cousin Jerry Boncodin at Tible, Camarines Sur which [was] more or less three (3) kilometers away. She arrived there at about 5:00 o'clock in the afternoon. She slept there in the evening of July 2, 1997 and stayed there for two weeks.

"Subsequently, Evelyn informed her aunt Simeona Boncodin that her father had abused her. Her aunt told her to submit herself to a physical examination. Accordingly, Evelyn went to the Sipocot Rural Health Clinic at Sipocot, Camarines Sur for physical examination.

"Dr. Nena Cruz, Medical Officer of the Rural Health Clinic, conducted a Medical Examination of Evelyn Bernas for whom she issued a Medical Certificate. The findings stated therein are as follows:

- '1. Healed hymenal laceration at 3:00, 9:00,
- 2. Admits 1, 2, 3 finger with no resistance'

"During her testimony in court, Dr. Nena Cruz stated that it can be concluded from the aforesaid findings that the patient was repeatedly used or abused. On cross-examination, she stated that the lacerations were caused more than a month ago.

**"For: G.R. No[s]. 133584-85
(Criminal Case No[s]. L-1893 and L-1896)**

"On May 7, 1996, Marigen (or Mary Jane) Bernas, then fifteen (15) years old, was staying with her father Roberto Bernas at Brgy. Tible, Sipocot,

Camarines Sur with her siblings Evelyn, Ginalyn and Joel. At about 7:00 o'clock in the evening of the same date, she was asleep with her sisters Evelyn and Ginalyn. She was awakened when she felt somebody on top of her whom she eventually recognized to be her father Roberto Bernas. She noticed that she was naked.

"She pleaded with him not to abuse her as she was his daughter but he boxed her. She struggled and resisted but her father held her legs open and inserted his penis in her vagina. She could not shout as her mouth was covered by her father's hands. When her father inserted his penis in her vagina she felt pain and her father kept on pumping. Afterwards, her father went to sleep while she cried. She woke up at 7:00 o'clock in the morning of the following day, May 8, 1996.

"At about 6:00 o'clock in the evening of May 8, 1996, Marigen was sleeping when she saw her father standing beside her bed. She told him not to touch her as her vagina was still very painful so he left.

"On the following day, May 9, 1996, at about 7:00 o'clock in the evening, Marigen awakened and saw her father beside her bed. When she pleaded with him not to touch her as her vagina was still very painful, he left.

"On June 10, 1996, Marigen went to sleep at 9:00 o'clock in the evening with her sisters Evelyn and Ginalyn. Eventually, Marigen awakened and noticed somebody on top of her. It was her father Roberto Bernas and she noticed that she was already naked. Her father then inserted his penis in her vagina and started pumping while she kept pushing his body. She felt pain as her father was pumping and she kept on resisting but her father held both her hands and arms. Afterwards, she cried. On the following day, June 11, 1996 she left and went to stay at Lando Segueria's place.

"She reported the matter to Lando Segueria and Simeona Boncodin. Afterwards, she submitted herself to a medical examination at the Sipocot District Hospital where she was issued a Medical Certificate. Said documents indicated the following findings:

"NOI — Allegedly Raped, DOI — July 7, 1996,
TOI — Around 7:00 P.M., POI- Tible
Sipocot, CS, DOE—Aug. 16, 1996, TOE— 11:15 AM.

INTERNAL EXAMINATION:

1. Healed hymenal laceration at 3:00, 7:00, 9:00, 11:00
2. Admits 1, 2 and 3 finger(s) with NO resistance.
3. NO OTHER INTERNAL FINDINGS SEEN DURING THE TIME OF EXAMINATION[.]^[12] (Citations omitted, emphasis in the original)

Version of the Defense

On the other hand, appellant's narration of the facts are as follows:^[13]