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affect not only Meralco and its customers but *all* electric utilities and *all* their customers *all* over the Philippines, which means this case will affect all the people of this country.

Finally, it is interesting to note that the unanimous Second Division Decision in the above-cited *PLDT* case was upheld by the *banc,* with some dissents led by the herein *ponente*, Mr. Justice Reynato S. Puno himself, but only after a full hearing by the full Court.

WHEREFORE, I regret I cannot cast my vote in favor of (or even against) the *ponencia* until and unless an Oral Argument is first called, preferably by the full Court, to clarify the above questions.

FIRST DIVISION

[G.R. No. 143004. April 9, 2003]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **DANTE CLIDORO and JOSEPH BARRA *y* MADERA, accused, DANTE CLIDORO,** *appellant.*

SYNOPSIS

Accused herein were charged with the special complex crime of robbery with rape. They allegedly broke into the house of Salvacion Avila and took from her store three bottles of gin and three packs of cigarettes. But, before they left the place, the two granddaughters of Salvacion were grabbed by each of the accused with the intention of raping them. However, only one of the accused was apparently successful in his exploit, while the other was only able to snatch the necklace of his victim and took away her jeans. After trial, the court *a quo* rendered the assailed decision, which sentenced appellant herein with *reclusion perpetua* for having committed rape on his victim. The other accused who did not appeal his case was sentenced

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to an indeterminate penalty. The appellant argued that his identification by the complainants was based on the suggestion of the policemen.

According to the Supreme Court, the issue of whether or not appellant was identified by the prosecution eyewitnesses as the perpetrator of the crime is a question of credibility. After having seen and heard the witnesses themselves, the trial judge was in a better position to determine their credibility. The appellant's contention that his identification was merely suggested by the police was without basis. What was important was that the witnesses were positive as to the perpetrators' physical identification from their own personal knowledge. The Supreme Court affirmed the decision of the trial court.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; FINDINGS OF THE TRIAL COURT ENTITLED TO THE HIGHEST RESPECT; RATIONALE.**— It is well-entrenched in this jurisdiction that factual findings of the trial court on the credibility of witnesses and their testimonies are entitled to the highest respect and will not be disturbed on appeal in the absence of any clear showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that would have affected the result of the case. Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial judge was in a better position to determine their credibility.

2. **ID.; ID.; ID.; WITNESSES NEED NOT KNOW THE NAMES OF THE ACCUSED TO IDENTIFY THEM.**— Appellant's contention that his identification was merely suggested by the police is without basis. Complainants positively identified appellant although they did not know his name when they reported the incident. In *People v. Dinamling*, we held that witnesses need not know the names of the accused as long as they recognized their faces. What is important is that the witnesses are positive as to the perpetrators' physical identification from their own personal knowledge.

3. **CRIMINAL LAW; ROBBERY WITH RAPE; ELEMENTS.**— The crime of Robbery with Rape is committed when the following

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elements concur: (1) the taking of personal property is committed with violence or intimidation against persons; (2) the property taken belongs to another; (3) the taking is done with *animo lucrandi*; and, (4) the robbery is accompanied by rape.

4. **ID.; RAPE; WHEN THE TOTALITY OF ESTABLISHED CIRCUMSTANCES ARE ENOUGH TO CONVICT THE ACCUSED; CASE AT BAR.**— In the case at bar, the following circumstantial evidence provided the bases in convicting appellant, *viz*: (1) Rachel Mabana positively and categorically declared that appellant broke into the house by destroying the door, took away merchandise from the store, dragged her outside and took her to a dark portion of the banana plantation; (2) When Rachel refused to undress as told, appellant slapped her twice on the face and hit her on the chest, rendering her unconscious; (3) When she regained consciousness, she found herself half-naked and there was whitish substance on her vagina; and (4) The medical examination found that her hymen was lacerated. The fact that Rachel was unconscious during the actual rape does not mean that appellant did not commit the crime. In *People v. Tabarangao* we affirmed the conviction of appellant who raped the victim while she was unconscious. Indeed, the totality of the established circumstances constitutes an unbroken chain of events which leads to a fair and reasonable conclusion that the victim was raped and that appellant was guilty of the crime to the exclusion of all others.

5. **ID.; ID.; ALIBI AS A DEFENSE; RELATIVELY WEAK AND CANNOT PREVAIL OVER POSITIVE IDENTIFICATION OF THE OFFENDER.**— Basic is the rule that alibi is easily concocted and cannot prevail over the victim's positive identification of her offender. Weak as it is, alibi becomes more ineffectual when appellant failed to demonstrate that it was physically impossible for him to be at the crime scene when it was committed.

APPEARANCES OF COUNSEL

The Solicitor General for appellee.
Public Attorney's Office for accused-appellant.

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DECISION

YNARES-SANTIAGO, *J.*:

This is an appeal from the decision[1] dated November 17, 1999 of the Regional Trial Court of San Jose, Camarines Sur, Branch 30, in Criminal Case No. T-1837, finding appellant Dante Clidoro guilty of the crime of Robbery with Rape and finding accused Joseph Barra guilty of Robbery.

In an Information dated September 8, 1997, Dante Clidoro and Joseph Barra were charged with the special complex crime of Robbery with Rape as defined in Article 294 of the Revised Penal Code, as amended by Republic Act No. 7659, allegedly committed as follows:

That on or about 12:00 o'clock midnight of June 4, 1997, at Sitio Barubaruti, Barangay Caraycayan, Municipality of Tigaon, province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, confederating together and mutually aiding each other, with intent to gain and lewd design, and by means of force or intimidation, did then and there, wilfully, unlawfully and feloniously have carnal knowledge with Rachel Mabana, taking advantage of nighttime to better accomplish their purpose and thereafter forcibly enter the house of Salvacion Avila and once inside take and carry away the following personal properties, *viz*:

1) One (1) pc. gold necklace — ₱2,000.00 belonging to one Lorna Barrion
2) One (1) *maong* pants — ₱400.00, belonging to Lorna Barrion
3) Three (3) pcs. San Miguel gin — ₱50.00 belonging to Salvacion Avila
4) Three (3) packs of More cigarettes — ₱34.00 belonging to Salvacion Avila

with a total value of ₱2,484.00, Philippine currency, against the will of the owner thereof, and to the damage and prejudice of the private offended parties hereof.

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[1] Penned by Judge Alfredo A. Cabral.

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ACTS CONTRARY TO LAW.[2]

Upon arraignment on May 25, 1998, the two accused, assisted by counsel, entered a plea of not guilty. Thereafter, trial on the merits proceeded.

The evidence for the prosecution established the following facts:

At midnight of June 4, 1997, Salvacion Avila was in her house at Sitio Barubaruti, Caraycayon, Tigaon, Camarines, Sur. She and her granddaughters, Rachel Mabana and Lorna Barrion, were awakened by men shouting outside their house. They were calling their names and ordering them to get out of the house or else they will throw a grenade at them. Salvacion got up and lit a kerosene lamp. Immediately thereafter, appellant Dante Clidoro broke into the house and ordered them to get out. He took three bottles of gin and three packs of More cigarettes from the store of Salvacion and placed them in his bag. Then he struck Salvacion's left hand which caused the kerosene lamp she was holding to fall.

Dante grabbed Rachel's wrist and brought her to the nearby banana plantation. He threatened to shoot Rachel if she shouted. He ordered her to undress and, when she refused, he slapped her twice on the face and hit her on the chest, causing her to faint. When she regained consciousness, she was half-naked. She felt pain and found whitish sticky substance on her vagina. She put on her dress and ran towards their house.[3]

Joseph also grabbed Lorna and dragged her towards the banana plantation. However, Lorna vigorously struggled and was able to free herself. She ran back to the house but Joseph snatched away her necklace. He also took Lorna's pair of jeans which was hanging on the clothesline outside.[4]

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[2] *Rollo*, p. 8.

[3] TSN, September 8, 1998, pp. 7-14.

[4] TSN, August 31, 1998, pp. 10-19.

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Salvacion brought Rachel to the Municipal Health Officer of Tigaon, Dr. Peñafrancia N. Villanueva, for physical examination. Dr. Villanueva prepared a medical report containing the following findings:

1. External genitalia — Normal
2. Internal genitalia — (+) hymenal lacerations old, healed at the 12, 6, 9 o'clock positions.
3. Hyperemia at the posterior fourchette.
4. Vagina admits index finger with ease.[5]

In his defense, appellant Dante Clidoro denies the charge against him and claims that from 4:00 p.m. until 8:00 p.m. of June 4, 1997, he was at Solomon Bosadre's house at Vinagre, Tigaon, Camarines Sur, where he helped prepare food for the *barangay fiesta*. At around 8:30 p.m., he and his sister, Marites Clidoro, went to the dance hall at Vinagre and stayed there until 11:30 p.m. They returned to the house of Solomon Bosadre and spent the night there. He woke up at 5:00 a.m. the following day and helped in the household chores until 3:00 p.m., at which time he went home to Barangay Tinawagan.[6] Appellant's testimony was corroborated by Marites.

For his part, Joseph Barra alleged that from 8:00 p.m. of June 4, 1997, until the following morning, he was at the dance hall in Vinagre with his friends, Marilou Maranan, Laarni Billo and Ester Patitico. Marilou corroborated Joseph's alibi.

After trial, the court *a quo* rendered the appealed decision, the dispositive portion of which reads:

WHEREFORE, the accused Dante Clidoro is hereby sentenced to suffer the penalty of imprisonment of *reclusion perpetua*, with the inherent accessories provided by law, to indemnify the offended party Rachel Mabana the sum of Fifty Thousand (₱50,000.00) Pesos, Philippine Currency. As regards the accused Joseph Barra he is hereby sentenced to suffer indeterminate penalty of imprisonment from two (2) years, eight (8) months and ten (10) days of *prision*

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[5] Records, Exhibit A, p. 5.

[6] TSN, April 14, 1999, pp. 2-4.

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correccional, as minimum, to eight (8) years, four (4) months and one (1) day of *prision mayor*, as maximum.

As regards the two (2) accused Dante Clidoro and Joseph Barra, the two (2) of them are hereby ordered to return the items robbed consisting of a necklace, a *maong* pant, 3 pieces of San Miguel Gin and three (3) packs More cigarettes, if not feasible, to indemnify the said offended parties, the sum of Two Thousand Four Hundred Eighty Four (₱2,484.00) Pesos, both of all Philippine Currency and for them to pay the costs.

The accused Dante Clidoro and Joseph Barra shall be entitled to full credit of their preventive imprisonment during the pendency of this case if they agreed to abide with the rules imposed upon convicted persons, otherwise, they shall be entitled to four-fifth (4/5) credit thereof.

SO ORDERED.[7]

Only Dante Clidoro appealed from the decision of the trial court, raising the following error:

THE TRIAL COURT GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY OF ROBBERY WITH RAPE DESPITE THE INSUFFICIENCY OF THE PROSECUTION'S EVIDENCE TO WARRANT A CONVICTION BEYOND REASONABLE DOUBT.

Appellant claims that Salvacion, Rachel and Lorna could not have identified the perpetrators of the crime because the light went out when Salvacion dropped the kerosene lamp she was holding.[8] Moreover, Lorna and Rachel narrated that there was a flashlight beam focused on their faces, which rendered them unable to see their attackers.[9] Appellant also argues that his identification by the complainants was based on the suggestion of the policemen.[10]

The issue of whether or not appellant was identified by the prosecution eyewitnesses as the perpetrator of the crime is a

[7] *Rollo*, p. 39.

[8] *Rollo*, Appellant's Brief, p. 68.

[9] *Id.*, p. 72.

[10] *Id.*, p. 78.

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question of credibility. It is well-entrenched in this jurisdiction that factual findings of the trial court on the credibility of witnesses and their testimonies are entitled to the highest respect and will not be disturbed on appeal in the absence of any clear showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that would have affected the result of the case. Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial judge was in a better position to determine their credibility.[11]

After a thorough scrutiny of the records of the case at bar, we are convinced that the trial court did not err in giving full faith and credit to the testimonies of the prosecution witnesses, which it described as categorical, straightforward and spontaneous.[12]

The evidence shows that Salvacion was still holding the lit kerosene lamp when she saw appellant take away three bottles of gin and three packs of cigarettes from her store. Rachel and Lorna were also able to note appellant's physical features because of light from the kerosene lamp held by Salvacion, who was standing only two meters away from the intruders. In a number of cases,[13] we have held that wicklamps, flashlight, even moonlight and starlight may, in proper situations, be sufficient illumination; and an attack on the credibility of witnesses solely on this ground is without merit.[14]

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[11] *People v. Edem*, G.R. No. 130970, 27 February 2002.

[12] *Rollo*, Decision, p. 38.

[13] In *People v. Gamboa*, 229 Phil. 298 (1986) and in *People v. Pueblas*, 212 Phil. 688 (1984), we ruled that the light of the moon is sufficient for a person to identify another. In *People v. Gapasin*, 229 Phil. 203 (1986), kerosene lamps were considered enough illumination; and in *People v. Nopia*, 199 Phil. 75 (1982), *People v. Porcare*, 205 Phil. 469 (1983), and *People v. Boado*, 191 Phil. 190 (1981), it was held that a flashlight is adequate to provide illumination for purposes of recognition and identification.

[14] *People v. Villaruel*, 330 Phil. 79, 88–89 (1996).

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Furthermore, it is the most natural reaction for victims of criminal violence to strive to ascertain the appearance of their attackers and observe the manner in which the crime was committed. Most often, the face and body movements of the assailants create a lasting impression on the victim's minds which cannot be easily erased from their memory.[15] Likewise, appellant failed to show that the prosecution witnesses were prompted by any ill motive to falsely testify or wrongfully accuse him of so grave a crime. In the absence of any evidence to show that the witness was actuated by any improper motive, his identification of the appellant as the author of the crime shall be given full faith and credit.[16]

Appellant's contention that his identification was merely suggested by the police is without basis. Complainants positively identified appellant although they did not know his name when they reported the incident. In *People v. Dinamling*,[17] we held that witnesses need not know the names of the accused as long as they recognized their faces. What is important is that the witnesses are positive as to the perpetrators' physical identification from their own personal knowledge.

The crime of Robbery with Rape is committed when the following elements concur: (1) the taking of personal property is committed with violence or intimidation against persons; (2) the property taken belongs to another; (3) the taking is done with *animo lucrandi*; and, (4) the robbery is accompanied by rape.[18]

In the case at bar, the following circumstantial evidence provided the bases in convicting appellant, *viz*:

(1) Rachel Mabana positively and categorically declared that appellant broke into the house by destroying the door, took

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[15] *People v. Martinez*, G.R. No. 116918, 19 June 1997, 274 SCRA 259, 269.

[16] *People v. Baniega*, G.R. No. 139578, 15 February 2002.

[17] G.R. No. 134605, 12 March 2002.

[18] *People v. Mamalayan*, G.R. No. 137255, 15 November 2001.

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away merchandise from the store, dragged her outside and took her to a dark portion of the banana plantation;

(2) When Rachel refused to undress as told, appellant slapped her twice on the face and hit her on the chest, rendering her unconscious;

(3) When she regained consciousness, she found herself half-naked and there was whitish substance on her vagina; and

(4) The medical examination found that her hymen was lacerated.[19]

The fact that Rachel was unconscious during the actual rape does not mean that appellant did not commit the crime. In *People v. Tabarangao*,[20] we affirmed the conviction of appellant who raped the victim while she was unconscious. Indeed, the totality of the established circumstances constitutes an unbroken chain of events which leads to a fair and reasonable conclusion that the victim was raped and that appellant was guilty of the crime, to the exclusion of all others.

Appellant's alibi fails to convince us. Basic is the rule that alibi is easily concocted and cannot prevail over the victim's positive identification of her offender. Weak as it is, alibi becomes more ineffectual when appellant failed to demonstrate that it was physically impossible for him to be at the crime scene when it was committed.[21] In this case, Solomon Bosadre's house, where appellant claims to have been, and the *locus criminis* are both situated within the same municipality of Tigaon, Camarines Sur. Appellant failed to show that it was physically impossible for him to have been at or near the crime scene.

The crime of Robbery with Rape is penalized under Article 294 of the Revised Penal Code, as amended by Section 9 of Republic Act No. 7659, to wit:

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[19] *Rollo*, Decision, pp. 36-37.

[20] G.R. Nos. 116535-36, 25 February 1999, 303 SCRA 623, 631.

[21] *People v. Belen*, G.R. Nos. 137991-92, 10 June 2002.

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Art. 294. *Robbery with violence against or intimidation of persons — Penalties.* — Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of *reclusion perpetua* to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed, or when the robbery shall have been accompanied by rape or intentional mutilation or arson.

Inasmuch as the law prescribes a penalty composed of two indivisible penalties, and considering that there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied, pursuant to Article 63, paragraph 2 of the Revised Penal Code. Hence, the trial court was correct in imposing on appellant the penalty of *reclusion perpetua*.

On the matter of damages, we note that the trial court only awarded ₱50,000.00 as civil indemnity. In rape cases, a separate award of moral damages in the amount of ₱50,000.00 should be given without need of proof other than the fact of rape.[22] The same is awarded to indemnify the young victim for the appalling and outrageous sexual violence which will most certainly haunt her for the rest of her life.[23]

WHEREFORE, in view of the foregoing, the Decision of the Regional Trial Court of San Jose, Camarines Sur, Branch 30, in Criminal Case No. T-1837, finding appellant Dante Clidoro guilty beyond reasonable doubt of the crime of Robbery with Rape, sentencing him to suffer the penalty of *reclusion perpetua*, and ordering him to pay the victim, Rachel Mabana, civil indemnity in the amount of ₱50,000.00, is *AFFIRMED* with the **MODIFICATION** that appellant is ordered to pay the victim the additional amount of ₱50,000.00 as moral damages.

Costs *de officio*.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Vitug, Carpio, and *Azcuna, JJ .*, concur.

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[22] *People v. Cana*, G.R. No. 139229, 22 April 2002.

[23] *People v. Velasquez*, G.R. Nos. 142561-62, February 15, 2002.