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and Soledad So Hu is deleted and the cross-claim of Philippine National Bank against the Spouses Mateo and Carlita Cruz is dismissed for lack of merit. Costs against petitioner.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Vitug, Ynares-Santiago, and *Azcuna, JJ.*, concur.

THIRD DIVISION

[G.R. No. 131860. January 16, 2003]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **MARLON MORALDE,** *appellant.*

SYNOPSIS

Appellant questioned before the Supreme Court the decision of the Regional Trial Court of Maasin, Southern Leyte, finding him guilty of the crime of rape committed against Salvacion Z. Hitomo and imposing upon him the penalty of *reclusion perpetua.* The appellant contended that the trial court erred in relying solely on the version of the victim and in rejecting his defenses of denial and alibi.

After reviewing the victim's testimony, the Court found her to be a trustworthy witness. Her explicit and unequivocal narration was exhaustive. She stuck to her story and was uncompromising on events and details on cross-examination. Her acts of immediately reporting her ordeal to the authorities and her willingness to submit to the medical examination of her private parts did not only demonstrate personal courage but a determination to seek justice for herself.

The Court rejected the appellant's defense of alibi. Having been positively and unmistakably identified by the complainant

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as her rapist, his defense of alibi cannot prosper. The Court held that categorical and consistent positive identification, absent any showing of ill-motive on the part of the eyewitness testifying thereon, prevails over the defenses of denial and alibi, which if not substantiated by clear and convincing proof, constitute self-serving evidence undeserving of weight in law. Moreover, the Court found that the appellant failed to establish his presence in another place at the time of the commission of the offense and the physical impossibility for him to be at the scene of the crime. Accordingly, it affirmed the decision of the trial court but modified the award of damages.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; TRIAL COURT'S EVALUATION OF TESTIMONY OF WITNESSES IS ACCORDED HIGHEST RESPECT ON APPEAL; REASON.**— The pivotal issue in this case focuses on the credibility of the victim. In this regard, we reiterate the familiar and well-entrenched rule that the factual findings of the trial court should be respected. The judge *a quo* was in a better position to pass judgment on the credibility of witnesses, having personally heard them when they testified and observed their deportment and manner of testifying. The evaluation of the testimony of the witnesses by the trial court is accorded the highest respect on appeal because the court below had the opportunity to observe the witnesses on the stand and detect if they were telling the truth. This assessment is binding upon the appellate court in the absence of a clear showing that it was reached arbitrarily or that the trial court plainly overlooked certain facts of substance or value that, if considered, might affect the result of the case.

2. **ID.; ID.; ID.; VICTIM'S CONDUCT IMMEDIATELY FOLLOWING THE ASSAULT WAS OF UTMOST IMPORTANCE TO ESTABLISH THE TRUTH OR FALSITY OF THE RAPE CHARGE.**— Likewise, the conduct of the victim immediately following the assault was of utmost importance to establish the truth or falsity of the charge of rape. The acts of complainant in immediately reporting her ordeal to the authorities and her willingness to submit to the medical examination of her private

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parts did not only demonstrate personal courage but a determination to seek justice for herself.

3. **ID.; ID.; ID.; ONCE A PERSON GAINS FAMILIARITY WITH ANOTHER, IDENTIFICATION BECOMES AN EASY TASK EVEN FROM A CONSIDERABLE DISTANCE.**— Complainant positively recognized appellant because of the illumination of the lamp inside her house and because she knew appellant even before the incident took place. As admitted by appellant himself, they met each other when complainant asked his name when he was having a drinking spree at her (complainant's) store sometime in October 1993. Once a person gains familiarity with another, identification becomes an easy task even from a considerable distance.

4. **ID.; ID.; ID.; IMPAIRED BY CONFLICTING STATEMENTS OF THE WITNESSES; CASE AT BAR.**— Appellant tried to demonstrate that he was far from Barangay Pangi, when the rape occurred on October 7, 1993. The defense even presented four of his long-time friends and companions in the detachment who all testified that appellant was with them during their operation. However, instead of corroborating his testimony, their statements created serious doubts because of certain inconsistencies and lapses. They differed in their declarations on the time they left Barangay Mahayahay, the starting point of their combat operation. The four police officers also contradicted each other as to their exact location at a certain time. At one point, appellant, together with SPO1 Antonino Dumaoal, asserted that they arrived early morning of the next day at Sitio Banab-on from Barangay Mahayahay where they had their breakfast. On the other hand, PO1 Arthur Arcilla affirmed that it was already 12:00 noon of the following day when they reached Sitio Banab-on where they ate lunch. These conflicting statements impaired the credibility of the defense witnesses.

5. **ID.; CRIMINAL PROCEDURE; TRIAL; JUDGE SHOULD NOT STAND IDLY BY AND ALLOW THE EXAMINING COUNSEL TO PROPOUND ENDLESS QUESTIONS THAT ARE CLEARLY IRRELEVANT, IMMATERIAL, IMPROPER OR REPETITIOUS.**— The judge need not wait for an objection from the opposing counsel to bar immaterial questions. A judge has the duty to see to the expeditious administration of justice. If

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the opposing counsel does not object to such questions, the judge should not stand idly by and allow the examining counsel to propound endless questions that are clearly irrelevant, immaterial, improper or repetitious. The actuation of the judge in this case, therefore, was proper.

6. **ID.; EVIDENCE; DEFENSE OF ALIBI; REQUISITES TO PROSPER; NOT MET IN CASE AT BAR.**— Having been positively and unmistakably identified by the complainant as her rapist, the appellant's defense of alibi cannot prosper. Categorical and consistent positive identification, absent any showing of ill-motive on the part of the eyewitness testifying thereon, prevails over the defenses of denial and alibi which, if not substantiated by clear and convincing proof, constitute self-serving evidence undeserving of weight in law. Alibi, like denial, is inherently weak and easily fabricated. For this defense to justify an acquittal, the following must be established: the presence of the appellant in another place at the time of the commission of the offense and the physical impossibility for him to be at the scene of the crime. These requisites have not been met.

7. **ID.; ID.; ID.; WILL BE REJECTED WHERE ACCUSED FAILED TO SHOW PHYSICAL IMPOSSIBILITY TO BE PRESENT AT THE CRIME SCENE AT THE TIME OF ITS COMMISSION.**— Accused failed to show that it was highly impossible for him to be present at the crime scene at the time of its commission. As observed by the trial court, the distance between Barangay Pangi and Barangay Mahayahay (particularly Sitios Banab-on, Maglimatok and Suwa) is negotiable in an hour or two of fast walking. Thus appellant, together with "Sarge," had sufficient time to go to Barangay Pangi to commit the crime and then return to their place of operation unnoticed. Hence, we reject the appellant's defense of alibi.

8. **CIVIL LAW; DAMAGES; CIVIL INDEMNITY; AWARD THEREOF INCREASED TO ₱50,000.00 IN CASE AT BAR; MORAL DAMAGES; SHOULD BE AWARDED WITHOUT NEED FOR PLEADING OR PROOF AS TO THE BASIS THEREOF.**— Regarding the amount of damages awarded by the trial court, we note that the trial court awarded civil indemnity in the amount of ₱30,000 in favor of the victim but failed to award moral damages. Pursuant to prevailing jurisprudence, the civil indemnity granted by the trial court to the complainant in the amount of ₱30,000

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is modified and is hereby increased to ₱50,000. Furthermore, in rape cases, moral damages should be awarded without need for pleading or proof as to the basis thereof.

APPEARANCES OF COUNSEL

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

D E C I S I O N

CORONA, *J.*:

Before us is an appeal from the Decision[1] dated September 3, 1997, of the Regional Trial Court of Maasin, Southern Leyte, Branch 25, in Criminal Case No. 1726, convicting herein appellant, Marlon Moralde, of the crime of rape, as defined and penalized under Article 335 of the Revised Penal Code.

The antecedent facts follow:

On October 7, 1993, at around 10:30 p.m., complainant Salvacion Hitomo, an unwed mother, was sleeping in her house located at Pangi, Libagon, Southern Leyte when she was awakened by the voice of appellant, Marlon Moralde, who was calling her name. The appellant who was completely naked stood in front of her. She recognized appellant because of the illumination coming from the lamp inside her house. She asked appellant what he was doing but the latter told her not to make any noise. Thereafter, appellant pinned down her hands, gagged her mouth with a face towel, pulled her dress upward, removed her panty before finally inserting his penis into her vagina. Appellant threatened to kill her if she made any noise. He even told her "It is better to have sex with (her) before he will (*sic*) die."[2]

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[1] Penned by Judge Leandro T. Loyao, Jr., *Rollo*, pp. 18-32.

[2] TSN, September 1, 1994, p. 3.

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After consummating his lust, appellant remained on top of the complainant to rest. While in that position, appellant tightly held complainant's hands while her mouth remained gagged with a face towel. Appellant attempted to rape her for a second time but failed to penetrate her. Later on, complainant heard the appellant calling somebody by the name of "Sarge," saying it was the latter's turn. Appellant stayed in the room, holding complainant's hands above her head and his other hand covering the latter's mouth, while "Sarge" inserted his finger into her vagina. "Sarge" then told appellant to stay with the complainant for a while and volunteered to go outside and serve as look out. Again, appellant went on top of complainant and ravished her. Before leaving, appellant warned Salvacion not to tell anybody about what happened, otherwise he would kill her.

The following day, Salvacion went to her uncle, Pedro Zapanta, and told the latter of her ordeal the night before. Losing no time, Zapanta accompanied his niece to their *barangay* captain and then proceeded to the Police Station of Libagon, Southern Leyte to report the rape incident. That same day, Salvacion underwent a physical examination conducted by Dr. Godofredo Espina, Municipal Health Officer of Libagon, Sorsogon, Southern Leyte. His findings were: (1) linear abrasion 2.5 cm. in length, nasal bridge; (2) speculum examination revealed the presence of whitish to yellowish milky discharges along the vaginal canal.

On January 6, 1994, an information [3] was filed with the Regional Trial Court of Maasin, Southern Leyte, based, on the sworn complaint of Salvacion Hitomo against Moralde, charging the latter with the crime of rape, committed as follows:

That on the 7th day of October 1993, at about 10:30 o'clock in the evening, more or less, in Barangay Pangi, Municipality of Libagon, Province of Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lustful intent and lewd designs, did then and there willfully, unlawfully and feloniously, by means of force, threats and intimidation, had carnal knowledge or sexual intercourse with the offended party, Salvacion

[3] Original Records, pp. 20-21.

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Z. Hitomo, without the latter's consent and against her will, to the damage and prejudice of the said offended party and of social order.

Contrary to law.

Duly arraigned on April 7, 1994, appellant pleaded "not guilty" to the charge.[4]

During the trial, the prosecution presented as witness the complainant herself. It also presented her uncle Pedro Zapanta, who testified that he knew the appellant for some time as the latter used to go to his house. Two weeks before the rape incident, appellant Moralde came to his house and told him that he (appellant) had good intentions for his niece but the complainant was indifferent. Zapanta told appellant that there was no reason for his niece to be interested in him as he was a married man. Appellant, however, was undeterred and vowed that one day Salvacion would be his.

Dr. Procioso Edillo, Jr., the new Municipal Health Officer of Libagon, Sorsogon, Southern Leyte testified on the contents of the medico-legal examination report of Dr. Godofredo Espina.

For his part, appellant interposed the defense of denial and alibi. He claimed that, on October 7, 1993 he was in the Consolacion PNP Detachment between 2:00 and 5:00 p.m., gathering young coconut leaves to be used as wrapper for the cooked rice which they were bringing with them during the police operation called "Operation Paglilimpyo" that evening. Their mission was to clear the area of Barangay Mahayahay and Maac of rebels who were earlier sighted there. Appellant claimed that he served as a guide for the three police teams involved in the operation from the Consolacion, Libagon and Nahulid police stations, respectively headed by policemen Antonino Domawal, Dulles and Danilo Albero.[5]

At around 8:00 p.m., the appellant, together with Bani, Oving and Sr. Insp. Rufino Garcia, the Chief of Police of Libagon

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[4] *Id.*, p. 23.

[5] TSN, March 22, 1996, pp. 15-16.

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and the Officer-in-Charge of the 353rd Mobile Force Company based in Sogod, Southern Leyte, went to Libagon Police Station then proceeded to Nahulid Police Station to deliver food to their companions. Sr. Insp. Garcia was the over-all leader of "Operation Paglilimpyo."

At around 9:00 in the evening, appellant and Sr. Insp. Garcia proceeded to Barangay Mahayahay where the three teams from Libagon, Nahulid and Consolacion converged before proceeding to Sitio Banab-on which is 12 kms. from Barangay Mahayahay. They arrived in Sitio Banab-on in the early morning of October 8, 1993. From Sitio Banab-on, the teams proceeded to Sitio Maglimatok of Barangay Maac, then to Sitio Suwa after which they went down to Sitio Maanghit of Barangay Nahaong, arriving thereat at around 5:30 p.m. before finally going back to the Consolacion PNP Detachment.

Upon arrival at the Consolacion PNP Detachment, an officer informed appellant that Sr. Insp. Garcia had sent a radio message, ordering him to proceed to Libagon Police Station to answer the charge of rape filed against him. The following morning, appellant was interrogated at the Libagon Police Station. Appellant claimed that some of his companions tried to intervene for him since he was allegedly with them during the combat operation. None of them, however, executed any affidavit to support appellant's claims.

On cross-examination, appellant declared that he came to know the complainant when he and a friend had a drinking spree sometime in October 1993 in complainant's store which also served as her house. He found complainant attractive. They bore no ill-feelings against each other.

PO1 Arthur Arcilla,[6] SPO1 Antonino Dumaoal,[7] SPO3 Jacinto Felicio[8] and Sr. Insp. Rufino Garcia [9] were presented by the

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[6] TSN, March 15, 1995.

[7] TSN, May 11, 1995.

[8] TSN, September 1, 1995.

[9] TSN, October 31, 1995.

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defense to corroborate appellant's testimony that he was with the group and served as their guide during "Operation Paglilimpyo" from 9:00 p.m. of October 7, 1993 (the time of the alleged rape incident) up to around 5:30 p.m. the following day. It was thus impossible for the appellant to commit the offense charged.

On September 3, 1997, the trial court rendered its decision, convicting appellant Marlon Moralde of rape, the dispositive portion of which reads:

> WHEREFORE, judgment is rendered finding the accused MARLON MORALDE GUILTY beyond reasonable doubt of the crime charged and SENTENCES him to the penalty of *RECLUSION PERPETUA* and its accessories as provided for by law, and to pay the costs.
>
> In addition, the accused is ordered to pay victim Salvacion civil indemnity in the amount of ₱30,000.00.
>
> So ordered.

Hence, this appeal, raising the lone assignment of error:

> THE TRIAL COURT GRAVELY ERRED IN RELYING SOLELY ON THE VERSION OF THE COMPLAINING VICTIM AND DISREGARDING COMPLETELY THE TESTIMONIES OF THE ACCUSED-APPELLANT AND HIS WITNESSES THAT IT WAS IMPOSSIBLE FOR MARLON MORALDE TO HAVE COMMITTED THE OFFENSE CHARGED BECAUSE HE WAS THEN ACTING AS TEAM GUIDE OF THE PNP IMPLEMENTING "OPLAN PAGLILIMPYO" ON THE DATE AND TIME OF THE SUPPOSED RAPE INCIDENT.

The pivotal issue in this case focuses on the credibility of the victim. In this regard, we reiterate the familiar and well-entrenched rule that the factual findings of the trial court should be respected. The judge *a quo* was in a better position to pass judgment on the credibility of witnesses, having personally heard them when they testified and observed their deportment and manner of testifying. The evaluation of the testimony of the witnesses by the trial court is accorded the highest respect on appeal because the court below had the opportunity to observe the witnesses on the stand and detect if they were telling the truth. This assessment is binding upon the appellate court in

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the absence of a clear showing that it was reached arbitrarily or that the trial court plainly overlooked certain facts of substance or value that, if considered, might affect the result of the case.[10]

There is nothing in the records of this case that persuades us to take a different stand. After reviewing the victim-complainant's testimony, we find her to be a trustworthy witness. The explicit and unequivocal narration made by the victim was exhaustive. She also stuck to her story and was uncompromising on events and details on cross-examination. The pertinent testimony of complainant is hereunder reproduced:

PROSECUTION YU:

Q Miss witness, where were you on October 7, 1993 at around 10:30 in the evening?
A In my house.

Q While you were in your house in the evening of October 7, 1993 what unusual incident occurred?
A Marlon Moralde called my name and when I awakened he was already in front of me that [sic] was naked and I asked him what was he doing there.

Q And what did Marlon answer when you asked him?
A He said, "Don't make any noise we are ASAP," and immediately he held my two hands (witness demonstrating by raising her two hands above her head) then he pulled my duster upward and covering my face.

Q Then, what did Marlon do to you?
A "*kiyodkiyodran.*"

Q What do you mean by "*kiyodkiyodran*?"
A He used me.

Q What did he do with his penis to you?
A He let it inserted [sic] into my vagina.

Q When he inserted into your vagina what did Marion tell you, if any?

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[10] *People vs. Bayona*, 327 SCRA 192, 197-198 [2000].

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A He said: "Don't make any noise because I will kill you if you make any noise. It is better to have sex with you before I will (sic) die."

Q What did you feel when he was having sexual intercourse with you?
A I could not feel any. I did not enjoy it because it is against my will.

Q How many times did this Marlon Moralde have sex with you?
A Three (3) times.

Q Was there any companion of Marlon Moralde at the time when he was in your house?
A There was because he said "Sarge" you're the next.

Q When this Marlon Moralde said "Sarge" it's your turn do you know who was this person whom Marlon Moralde called?
A I do not know.

Q And what did this man do to you when called by Marlon?
A He inserted his finger into my vagina.

Q What else did he do aside from fingering your vagina?
A The man said: "You just take charge of it because I will go downstairs and watch outside."

Q How about Marion Moralde what did he do when that man said you just take charge of it because I will go downstairs and watch outside?
A The third time he had a carnal knowledge with me.

Q After that what did Marlon Moralde do to you?
A He said "Do not tell anybody because I will kill you."[11]

On cross-examination, complainant had this to say:

ATTY. CABUCAN:

Q At the time you saw him already naked he went nearer to you, right?
A He rushed at me and placed my face towel to my mouth.

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[11] TSN, September 1, 1994, pp. 2-5.

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Q Now, prior to that very moment when he rushed at you, please tell us what was your position then at that time, were you still lying down or sitting?
A I was about to stand up then he immediately rushed at me and covering my mouth with my face towel then he pulled upward my "daster."

Q At that moment you saw him naked you have already a chance to shout and ask for help from your neighbor?
A I was not able to shout because he immediately covered my mouth with my face towel.

xxx xxx xxx

Q And you did not exert effort to extricate yourself from the hold of Marion?
A I did not because he held my two hands above my head and then pulled by "daster" upward and covering my mouth with my face towel.

COURT:

Q Which hand he was holding to your hands above your head?
A Right hand.

Q And which hands he held first upon your mouth?
A At first he put the face towel to my mouth and immediately after he pulled my "daster" upward.

Q In effect, with what hand he pulled your "daster?"
A The left hand.

Q At the time he pulled your "daster" upward by his left hand was there an occasion for you to shout?
A No, Your Honor, because the face towel was on my mouth and he pulled my "daster" upward.

Q Which came first the putting of the face towel to your mouth or the pulling up of your "daster?"
A The face towel then after that the "daster" that covered my face.

Q In effect, while the face towel was covering to (sic) your mouth and being held on by the left hand of the accused, the right hand of Marlon Moralde holding your two hands above your head there he released his hands that was (sic) placing to your mouth with a face towel when he pulled your "daster" up.

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A The face towel was gagged into my mouth when he pulled my "daster" up.

xxx xxx xxx

ATTY. CABUCAN:

Q And he was able to hold your both hands with his right hand?
A Yes.

Q You mean at that time when his left hand was pulling your "daster?"
A Yes.

Q After that he had a carnal knowledge with you?
A Yes, he succeeded in having carnal knowledge with me.

Q You were wearing panty at that time?
A Yes, I have.

Q And what hand did he use in pulling your panty?
A The left hand.

Q His left hand which was pulling your shirt and gagging your mouth with a face towel and it was the same hand which he used in pulling your panty?
A Yes, all left hand.

Q So, he pulled your "daster" upward and at the same time gagging your mouth with a face towel and at the same time in pulling your panty, all with his left hand?
A Yes.

COURT:

Q Simultaneously or after the other?
A One at a time.

Q Was your panty drawn at your legs?
A Yes.

Q Totally?
A My panty was fully drawn and my legs were fully extricated when I was wiggling.[12]

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[12] TSN, September 1, 1994, pp. 15-19.

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Likewise, the conduct of the victim immediately following the assault was of utmost importance to establish the truth or falsity of the charge of rape.[13] The acts of complainant in immediately reporting her ordeal to the authorities and her willingness to submit to the medical examination of her private parts did not only demonstrate personal courage but a determination to seek justice for herself.

Appellant casts doubt on complainant's ability to identify him considering that she failed to recognize his alleged companion.

We do not agree. Complainant positively recognized appellant because of the illumination of the lamp inside her house and because she knew appellant even before the incident took place. As admitted by appellant himself, they met each other when complainant asked his name when he was having a drinking spree at her (complainant's) store sometime in October 1993. Once a person gains familiarity with another, identification becomes an easy task even from a considerable distance.[14]

Appellant also accuses Judge Loyao of partiality. The latter allegedly commented and ruled on the questions of the defense counsel during the cross-examination of a prosecution witness. This the judge allegedly did despite the absence of objections by the prosecution.

We find no merit in this contention. The judge need not wait for an objection from the opposing counsel to bar immaterial questions. A judge has the duty to see to the expeditious administration of justice. If the opposing counsel does not object to such questions, the judge should not stand idly by and allow the examining counsel to propound endless questions that are clearly irrelevant, immaterial, improper or repetitious.[15] The actuation of the judge in this case, therefore, was proper. In *Ventura vs. Judge Yatco*,[16] Justice Labrador opined and we quote:

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[13] *People vs. Mariano*, 345 SCRA 1, 12 [2000].

[14] *People vs. Reyes*, 309 SCRA 622, 634-635 [1999].

[15] *People vs. Zheng Bai Hui*, 338 SCRA 420, 464 [2000].

[16] 105 Phil. 287, 294 [1959].

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While judges should as much as possible refrain from showing partiality to one party and hostility to another, it does not mean that a trial judge should keep mum throughout the trial and allow parties to ask the questions that they desire, on issues which they think are the important issues, when the former are improper and the latter, immaterial. If trials are to be expedited, judges must take a leading part therein, by directing counsel to submit the evidence on the facts in dispute by asking clarifying questions, and by showing an interest in a fast and fair trial. Judges are not mere referees like those of a boxing bout, only to watch and decide the results of a game; they should have as much interest as counsel in the orderly and expeditious presentation of evidence, calling attention of counsel to points at issue that are overlooked, directing them to ask the question that would elicit the facts on the issues involved; clarifying ambiguous remarks by witnesses, *etc.* Unless they take an active part in trials in the above form and manner, and allow counsel to ask questions whether pertinent or impertinent, material or immaterial, the speedy administration of justice which is the aim of the Government and of the people cannot be attained. Counsel should, therefore, not resent any interest that the judge takes in the conduct of the trial, they should be glad that a trial judge takes such interest and help in the determination of truth.

Having been positively and unmistakably identified by the complainant as her rapist, the appellant's defense of alibi cannot prosper. Categorical and consistent positive identification, absent any showing of ill-motive on the part of the eyewitness testifying thereon, prevails over the defenses of denial and alibi which, if not substantiated by clear and convincing proof, constitute self-serving evidence undeserving of weight in law.[17] Alibi, like denial, is inherently weak and easily fabricated. For this defense to justify an acquittal, the following must be established: the presence of the appellant in another place at the time of the commission of the offense and the physical impossibility for him to be at the scene of the crime.[18] These requisites have not been met.

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[17] *People vs. Villablance*, 316 SCRA 13, 21-22 [1999].

[18] *People vs. Baid,* 336 SCRA 656, 678 [2000].

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Appellant tried to demonstrate that he was far from Barangay Pangi, when the rape occurred on October 7, 1993. The defense even presented four of his long-time friends and companions in the detachment who all testified that appellant was with them during their operation. However, instead of corroborating his testimony, their statements created serious doubts because of certain inconsistencies and lapses. They differed in their declarations on the time they left Barangay Mahayahay, the starting point of their combat operation. The four police officers also contradicted each other as to their exact location at a certain time. At one point, appellant, together with SPO1 Antonino Dumaoal, asserted that they arrived early morning of the next day at Sitio Banab-on from Barangay Mahayahay where they had their breakfast. On the other hand, PO1 Arthur Arcilla affirmed that it was already 12:00 noon of the following day when they reached Sitio Banab-on where they ate lunch. These conflicting statements impaired the credibility of the defense witnesses.

Accused failed to show that it was highly impossible for him to be present at the crime scene at the time of its commission. As observed by the trial court, the distance between Barangay Pangi and Barangay Mahayahay (particularly Sitios Banab-on, Maglimatok and Suwa) is negotiable in an hour or two of fast walking. Thus appellant, together with "Sarge," had sufficient time to go to Barangay Pangi to commit the crime and then return to their place of operation unnoticed. Hence, we reject the appellant's defense of alibi.

Regarding the amount of damages awarded by the trial court, we note that the trial court awarded civil indemnity in the amount of ₱30,000 in favor of the victim but failed to award moral damages. Pursuant to prevailing jurisprudence, the civil indemnity granted by the trial court to the complainant in the amount of ₱30,000 is modified and is hereby increased to ₱50,000. Furthermore, in rape cases, moral damages should be awarded without need for pleading or proof as to the basis thereof.[19]

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[19] *People vs. Reyes*, 315 SCRA 563, 578 [1999].

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WHEREFORE, the judgment of the Regional Trial Court of Maasin, Southern Leyte, Branch 25, in Criminal Case No. 1726 convicting Marlon Moralde of rape and sentencing him to *reclusion perpetua* is hereby *AFFIRMED* with the *MODIFICATION* that the civil indemnity is hereby increased to ₱50,000 and an additional amount of ₱50,000 as moral damages is hereby awarded. Costs against appellant.

SO ORDERED.

Puno (Chairman), Panganiban, Sandoval-Gutierrez, and *Morales, JJ.*, concur.

FIRST DIVISION

[G.R. No. 140468. January 16, 2003]

OLYMPIA HOUSING, INC., *petitioner, vs.* PANASIATIC TRAVEL CORPORATION and MA. NELIDA GALVEZ-YCASIANO, *respondents.*

SYNOPSIS

Petitioner and respondent Ma. Nelida Galvez-Ycasiano entered into a Contract to Sell whereby the former agreed to sell to the latter on installment a condominium unit. Respondent subsequently defaulted in the payment of the monthly installment. Despite repeated demands to pay, respondent failed to settle her obligation. Hence, petitioner rescinded the contract and thereafter filed a complaint for Recovery of Possession. On her part, respondent interposed the defense that she had made substantial payments of the purchase price of the subject condominium unit. The Regional Trial Court dismissed the complaint ruling that it was prematurely filed without complying with the mandate of Republic Act No. 6552. The trial court found no notice of cancellation or the demand for rescission