

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ALFREDO RAPADA Y CARLO, DEFENDANT-APPELLANT.***G.R. Nos. L-31243-44. October 28, 1977*

Ponente: FERNANDO, J.

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There is not much in this prosecution for rape of the accused Alfredo Rapada that differs from numerous cases, with diametrically conflicting versions as to the circum-stances under which the act of sexual intercourse took place. Twice it did happen between him and complainant. The defense interposed was that there was consent on her part. Her testimony was to the effect that she had to submit to his desires because of the employment of force and intimidation. One distinguishing feature is that complainant appears to be mentally deficient, and not solely due to her having finished only the second grade in school. On the basis of the conflicting testimony as offered, the trial court rendered a decision finding him guilty of rape on each of the above occasions and sentencing him to the penalty of reclusion perpetua for each offense. Hence this appeal. In the brief submitted for him, the sole error assigned is the alleged failure of the trial court to appraise correctly the evidence of record resulting in the adverse decision. Such an approach in the light of decided cases has not led to the desired goal of reversal. So it must be in this instance. Moreover, a careful study of the testimony offered by both sides fails to substantiate the allegation that the lower court should have acquitted appellant. The judgment must be affirmed.

In the brief for the accused-appellant, there was no statement of facts. It was not unexpected therefore for the Solicitor General, on behalf of 'the People of the Philippines, to rely on the facts as found by the trial court. In the appealed decision, there was a detailed narration of the evidence for the prosecution and the accused. As far as the testimony of complainant is concerned, this is the summary by the trial court appearing in the appealed decision; "The complainant Nora Reyeg, 24 years of age and single testified that her highest educational attainment is second grade in the elementary school; that she had been sick with polio since childhood; that sometime in February, 1968 she was living alone in the house owned by her sister Delia Villareal at Bicutan, Fort Bonifacio, Taguig, Rizal; that at 3:00 o'clock in the afternoon of February 19, 1968, while she was alone in the house, the accused passed by and came up the house; that the accused closed the door, pushed her down, removed her panties and inserted his penis inside her vagina; that he was able to have carnal intercourse with her on that occasion because of the threat of the accused that if she will not agree, he will kill her; that when the accused uttered these words, he was holding with his hand a knife (kutsilyo) 12 inches long, more or less, and 3 inches wide while he was on top of her performing the sexual act. She also testified that she cannot resist, shout for help and even wiggle during the sexual act because her mouth was covered .by the left hand of the accused; that the accused left her alone on that night around. 8:00 o'clock telling her not to report the matter to anybody or she will be killed; that on February 20, 1968 about 6:00. P.M. while she was alone, the accused passed by and he did the sexual act again, pushing her down and inserted his penis and on that occasion she cannot resist because she was boxed twice in the stomach while she was still standing and she felt dizzy, the accused leaving her in that condition; that when her sister Delia Villareal visited her on the following Sunday, she disclosed the said incident which led her sister to bring her along to their house that day. It also appears from the testimony of this witness

that her sister Delia was living in Manila in a house rented by them; that she has been all alone on that house in Fort Bonifacio, Rizal for more or less a month as a caretaker; that her Aunt Titay used to join her in sleeping during nighttime; that her Tita Titay has a house nearby also in Fort Bonifacio; that on the night of February 19, 1968, she was not able to tell her experience to her aunt because she feared the threat on her life by the accused; that on the night of February 29, 1968, her Tia Titay did not sleep with her in the house because her aunt went to Manila; and that Delia Villareal upon knowing these facts, reported the matter to the Taguig Police Department, Taguig, Rizal."[1]

Insofar as appellant was concerned, the appealed decision had this summary: "The accused Alfredo Rapada declared that he first met the complainant Nora Reyeg while conducting a census of families living within his district for their association, the Kapatirang Langgam, Incorporated, in the house of Delia Villareal at Bo. Bicutan, Fort Bonifacio, Rizal, in the first week of February 1968; that he came to know that Nora Reyeg was living alone in that house separate from her sister Delia Villareal because Marcos Villareal, Delia's husband, treated her unfairly; that because of this circumstance, he used to visit the complainant; that there were occasions when the complainant asked him some favors like helping her fix the fence, fetching water; that on February 16, 1968, at 8:30 in the evening, he went to complainant's house and delivered the lamp which Nora Reyeg borrowed from him; that on said occasion the complainant requested him to sleep in the latter's house and keep her company because she was alone then; that he agreed to her request and he slept in her house; that at about 12:00 o'clock midnight while he was sleeping, Nora came near him, leaned on him and embraced him, after which they forgot everything and finally had sexual intercourse; that again on February 20, 1968, at about 11:00 o'clock in the evening, he passed by Nora's house which was then still lighted; that he knocked at the door and the complainant let him in; and that on that evening, they again had sexual intercourse. The accused admits that from the first time they met up to February 26, 1969, he and the complainant had cohabited only twice. He also declared that when he was brought to the Municipal Hall of Taguig, Rizal, by the arresting officer, he was merely asked his name, address, his civil status and his parents' name after which he was made to sign an affidavit by the policeman, which he would not have signed had it not been for the maltreatment he received from the police; that this very incident was disclosed by him to his mother when the latter visited him but he told his mother not to tell it to anybody; that he was about to relate his horrible experience at the hands of the policeman when he appeared before Mayor Monico Tanyag of Taguig, Rizal, to swear to his affidavit but he feared further maltreatment upon seeing a policeman; that at the preliminary investigation before Judge Sto. Domingo, his lawyer Atty. Camilo Sabio advised him not to disclose the maltreatment he suffered in the hands of the policeman in order to avoid further injury and to relate this matter only during the hearing of the case before this Court. On cross-examination, the accused Alfredo Rapada declared that he was a bloc officer of their association Kapatirang Langgam, Inc., comprising 24 families, the house of Mrs. Delia Villareal being one of them. He also testified that because the complainant was all the time alone in the house, and with the jokes of his friend Felipe Brazil and his aunt Aling Beatriz, and sensing that Nora Reyeg is somewhat in love with him, the more he visited her in her house and helped her; and that his house is only about 15 meters away from the house of the complainant."[2]

Then came this portion from the appealed decision: "After evaluating all the evidence submitted by the parties, the Court finds that the version of the prosecution is credible and should be accorded belief."[3] The trial court explained why: "It will be remembered that the complainant Nora Reyeg from the way she speaks and the manner she acts appears to be a mentally retarded girl. She is not only simple, but practically feeble-minded. During the course of her testimony, she most of the time smiled although once in a while she burst into tears. With such mentality she can be an easy prey to anybody who would like to take advantage of her. This must be the reason which induced the accused in committing the crime imputed to him in those cases. Another reason that prompted the accused is the fact that during the incidents in question, that is, February 19 and 20, 1968, the complainant was

alone in the house, reason for which, the accused was emboldened to commit, as he did commit, the crime of rape on the complainant. The story of the accused that when he went to the house of the complainant at about 8:30 in the evening of February 16, 1968 to deliver the lamp which the complainant was borrowing from him, the complainant requested him to sleep in her house because she was then alone, for which he agreed, and that at about 12:00 o'clock midnight while he was sleeping, the complainant came near him, leaned on him and embraced him after which they forgot everything and finally had sexual intercourse, which act of sexual intercourse was repeated at about 11:00 o'clock in the evening of February 20, 1968 also at the instance of the complainant, is not believable. In the first place, if it were really true that it was the complainant who seduced the accused to have sexual inter with her, she' would not have filed the complaint in these cases. In the second place, what reason has the accused in going to, the house .of the complainant at 11:00 o'clock in the evening of February 20., 1968 when .he can go there any time of the day considering that his house, as admitted by him, is only about 15 meters away from the house of the complainant? Besides, the act complained of happened' at about three o'clock in the afternoon of February 19, 1968, not in the evening of February 16, 1968."[4]

The lower court decision was likewise based on the following circumstance: "Another point which militates against the accused is the findings of Dr. Jesus Crisostomo on the examination conducted by him oil the person of the complainant Nora Reyeg (Exhibit A). In his Living Case Report No. MI-68-108, Exhibit A, Dr. Crisostomo made the following conclusions: (a) No extra-genital physical injury found on the body of subject at the, time of examination, and (b) genital findings compatible with sexual intercourse with a man on or about February 19, 1968 (Exhibit A-1). The accused claims that because there was no extra-genital physical injury found on the body of the complainant, he did not force the latter to submit to his carnal desires. But it should be remembered that according to the complainant, when she was assaulted by the accused, the latter was holding a knife (kutsilyo) with his right hand. Hence, because of fright, the complainant was forced to submit to the desires of the accused to have sexual inter-course with him. This explains the fact that no extra-genital physical injuries were found on the person of the complainant. As regards the second finding to the effect that it is compatible with sexual intercourse with a man on or about February 19, 1968, the same needs no further elucidation; it is self-explanatory."[5]

Even a cursory reading of the above recital of the evidence and the reasons given for the verdict of guilt suffices to demonstrate the difficulty of seeking a reversal. There was a valiant effort on the part of counsel for appellant, Attorney F. F. Bonifacio, Jr., to secure an acquittal. It was not enough. The sole assignment of, error on the alleged lack of evidence to prove guilt beyond reasonable doubt was premised on what he considered to be the lack of credibility of the testimony of complainant. That did not make matters any too easy for him. It was a well-settled doctrine that findings of fact of a trial court usually command acceptance from this Tribunal. Moreover, the evidence given by complainant can stand the test of strict scrutiny. As noted at the outset, we affirm.

1. Appellant is quite insistent that there was consent on the part of complainant. A reading of the testimony of complainant would easily reveal that on both occasions where appellant had sexual intercourse with her, she was forced to yield only because of force and intimidation. Appellant did make much of the alleged admission to the trial court in her declaration that she did nothing and did not resist at all when the act of coition took place. His own brief, however, pointed out that when asked how he was able to consummate the act if she did not consent, this was her answer: "I consented sir, because he said that if I would not agree he would kill me."[6] As a matter of fact, upon request of his counsel to have the words in Tagalog be recorded, his brief did quote the exact response of complainant thus: "Pumayag na ako, sinabi na kung hindi ako papayag papatayin ako."[7] That was insofar as the sexual inter?course that happened on February 19, 1968. Now as to the repetition of such an act, again with force and intimidation being employed, on the evening of February 20, 1968, if there was an admission

why she did not resist, she explained by categorically affirming: "I was hurt." [8] When asked to explain in what manner she was hurt on that occasion, this is her answer: "He hit me in the stomach" [9] She explained further that she was boxed. When asked how many times, she replied: "Two (2) times, sir." [10] Continuing, she stated that, the fist blow landed on her while she "was still standing." [11] She was boxed twice before she was pushed down. It is in that sense that the allegation that there was no resistance on her part should be viewed. In her own words: "I was hurt and I consented." [12] There was a vigorous cross-examination conducted by counsel for appellant. She remained firm and resolute in her testimony. Her version was in no way impaired. What was more, it was given more credence. She had opportunity to inform the court that appellant was not courting her, and therefore the idea of consent on her part was rather unlikely. Thus: "He, is not courting me, sir." [13] Anent the observation of the trial court by way of referring to her being mentally retarded that she was smiling during her testimony, a circumstance which was made much of to show that what happened to her was not taken seriously, the fiscal, when the same question was repeated on cross-examination as to how the sexual act was consummated, sought to make it of record that the witness cried and shed tears. [14] Counsel for complainant countered: "The witness has been apparently crying before she took the witness stand if Your Honor please. We would want that to -be of record." [15] When she was asked by counsel this time as to whether or not she informed Dr. Crisostomo of the appellant having boxed her and of her having lost, consciousness, her answer being in the affirmative, again the fiscal made the manifestation that "at this juncture the witness is again shedding tears, Your Honor." [16] The court observed: "With more profusion this time." [17] When counsel asked why she was crying, she replied: "Because of what he did to me, sir." [18] It is thus evident that the cross-examination far from weakening her testimony reinforced it by her reiterating the ordeal to which she was subjected, first on February 19, 1968 and thereafter on February 20, 1968. The conclusion reached by the trial court that rape was committed on both occasions is thus supported by the credible and competent evidence of record.

2. The adherence on the part of this Court to the principle that the findings of fact by the trial court, based as they are on his having observed the witnesses testify, should be entitled to acceptance in the absence of any showing that a circumstance has been overlooked or its significance misinterpreted certainly does not lessen the burden shouldered by appellant in his effort to obtain a reversal. Only last July, in *People v. Villamala*, [19] the conviction of the two accused for the crime of rape was upheld on the inability of the appellants to persuade this Tribunal that their case came within the exception. [20] So it must be likewise in this appeal.

3. It is true that there is the constitutional presumption of innocence. [21] There is the requirement, therefore, that the guilt of the accused be shown beyond reasonable doubt. In a recent case, *People v. Dramayo*, [22] there is this relevant excerpt: "Only if the judge below and the appellate tribunal could arrive at a conclusion that the crime had been committed precisely by the person on trial under such an exacting test should the sentence be one of conviction. It is thus required that every circumstance favoring his innocence be duly taken into account. The proof against him must survive the test of reason; the strongest suspicion must not be permitted to sway judgment." The conscience must be satisfied that on the defendant could be laid the responsibility for the offense charged; that not only did he perpetrate the act but that it amounted to a crime. What is required then is moral certainty. [23] That stage of moral certainty has been reached in this case. The conscience of the trial judge was satisfied that the appellant could be held liable for such offenses. That is likewise true as far as this Court is concerned. The reliance then on the constitutional presumption of innocence is futile.

4. In the brief for appellant, the lower court decision as assailed on the ground that the extra-judicial admission of the accused as to his having committed rape on both occasions was given credence by the -trial court. Counsel for appellant is to be commended for his insistence that the constitutional right against self-incrimination must not be ignored or disregarded. Only recently, in *People v. Buscato*, [24] Justice Antonio, as ponente, stressed its importance in this wise: "The constitutional inquiry is not whether the conduct of the police officers in obtaining

the confession was shocking, but whether the confession was free and voluntary; that is, it must not be extracted by any sort of threats or violence, nor obtained by any direct or implied promises, nor by the exertion of improper influence. It has been recognized that 'coercion can be mental as well as physical, and that the blood of the accused is not the only hallmark of an unconstitutional inquisition.'"[25] Considering that the doubt as to whether or not the admission was made voluntarily is not easily dispelled, it ought to have been rejected by the trial court. Even so, there is no justification for .the reversal sought. For as held in *People v. Bagasala*,[26] if evidence other than such involuntary admission or confession may be found in .the record sufficient to justify a finding of guilt, then conviction is warranted. In the light of what has been set forth above, the imputation that any involuntary extra-judicial admission was erroneously given weight by the trial court even if warranted cannot be the basis for an acquittal.

WHEREFORE, the decision of the lower court of September 8, 1969, finding the accused Alfredo Rapada y Carlo guilty beyond reasonable doubt of the crime of rape in the two criminal cases filed against him and sentencing him to suffer the penalty of reclusion perpetua in each case', with the accessory penalties provided for by law and to pay the costs, is affirmed with the modification that he should be credited not only with one-half but with the full period of the preventive imprisonment 'served by him and that an indemnity of P12, 000 for each offense be imposed on him. In the service of the penalty of two reclusion perpetuas, the provision of Article 70 of the Revised Penal Code should be followed.

Barredo, Antonio, Aquino, Concepcion, Jr., and Santos, JJ., concur.

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[1] Decision, Appendix to Brief for Appellant, 48-49.

[2] Ibid, 54-56.

[3] Ibid, 58.

[4] Ibid, 59-60.

[5] Ibid, 61.

[6] Brief for Appellant, 12, reproducing answer of complainant on the witness stand appearing in t.s.n., Session of October 20, 1968, 6.

[7] Ibid, 12.

[8] T.s.n., Session of August 20, 1968, 9.

[9] Ibid.

[10] Ibid.

[11] Ibid, 10.

[12] Ibid.

[13] T.s.n., Session of September 17, 1968, 5.

[14] Ibid, 19.

[15] Ibid, 19-20.

[16] Ibid, 22.

[17] Ibid.

[18] Ibid.

[19] L-41312, July 29, 1977.

[20] *People v. Tila-on*, 112 Phil. 546 (1961); *People v. Lumayag*, L-19142, March 31, 1965, 13 SCRA. 502; *People v. Gumahin*, L-22357, October 31, 1967, 21 SCRA 729; *People v. Manos*, L-27791, December 24, 1970, 36 SCRA 457; *People v. Angcap*, L-28748, February 29, 1972, 43 SCRA 437; and *People v. Cudalina*, L-34969, April 29, 1975, 63 SCRA 499 were cited.

[21] According to Article IV, Section 19 of the Constitution: "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, \*\*\*."

[22] L-21325, October 29, 1971, 42 SCRA 59.

[23] Ibid, 64.

[24] L-40639, November 23, 1976, 74 SCRA 30.

[25] Ibid, 49-50.

[26] L-26182, May 31, 1971, 39 SCRA 236.

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