

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.  
CLARO FELICIANO ET AL., DEFENDANTS, CLARO FELICIANO AND  
ELIGIO DE LA CRUZ, DEFENDANTS-APPELLANTS.**

*G. R. No. L-337. October 25, 1946*

Ponente: PERFECTO, J.

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**PERFECTO, J.:**

Charged with and found guilty by the lower court of the crime of robbery in band with rape, accused Claro Feliciano and Eligio de la Cruz come to this Court on appeal.

The crime was committed in Sto. Rosario, a remote barrio in the municipality of Sto. Domingo, Nueva Ecija, on August 6, 1945. Living in the house where it was committed were Vicente del Rosario, his son Antonio, the latter's wife Liwayway de Guzman, and the small child of Antonio and Liwayway. Not long before, Vicente del Rosario and his son sold a piece of land for P1,500 and a calesa for P1,050.

According to the testimony of the three above-named persons, four men, including appellants Claro Feliciano and Eligio de la Cruz, went up their house, all armed, three of whom including appellants each with a pistol or revolver and the fourth a bolo. The intruders cut a rope from the cradle of the small child of Liwayway and with it tied together the hands of Vicente and Antonio del Rosario behind their backs. Then they maltreated father and son to induce them to reveal the whereabouts of the money which they received for the sale of the land and the calesa. Father and son answered that they did not have the money as it was already spent.

The malefactors then started searching the shelves, tampipi, frames, sacks, and all corners of the house.

One of them approached Liwayway, who was then lying face downward as ordered by the robbers, and told her to sit down and, pointing his revolver at her, ordered her to bring out the money. She answered that they have no more money. The man insisted and Liwayway, because of fear, ultimately pointed to the tampipi where the amount of P280 in cash was kept.

And now let us read Liwayway's testimony: "They opened the tampipi and from it they took P280 and the clothes. After ransacking our trunk and shelf and not finding money therein, they said that the money must be hidden in my body. Then they raised my chemise up to my waist, and when they failed to find anything, one dragged me into the room and the other pushed me. When we were in the room, they forced me to lie down. I was resisting, and as I was helpless against two men, they were able to accomplish what they wanted. Dominador Matias held me by the hands and the other (Claro Feliciano) held me by the feet. When they could not accomplish their purpose, Doming twisted my hand and the other gave me a fist blow in my leg. After they had accomplished what they wanted, the two went out of the room. Both had sexual intercourse with me. Then the other two men came in and had sexual intercourse with me." Among the last two was Eligio de la Cruz. Her chemise Exhibit C was torn because of the struggle between her and the men who raped her, On August 8 Liwayway went to Talavera where she submitted herself to a physical examination by a doctor. When Liwayway received the fist blow in her leg she shouted and Dominador Matias strangled her. She is 20 years old and studied up to second year in the high school.

Since the incident, she became thinner. In the room there was a light located on the bed, and by said light Liwayway was able to recognise the faces of the men who abused her.

The robbers took, besides the P280 from the tampipi, the amount of P1,108 in a money case hidden inside the pillow used by Liwayway, clothes, shoes, silverware, and other goods with a total value of P3,491.

Claro Feliciano, by his testimony and that of witness Julio Domingo, attempted to establish an alibi by declaring that he and his witness were, in the evening in question, from sunset to about midnight, in the field pulling rice seedlings, and that they had never separated from each other during all that time.

Eligio de la Cruz and his witness Anastacio Castro attempted to show, by their testimony, that from 7 o'clock in the evening in question up to midnight, he was in his house together with Anastacio who came to advise him to be on the alert because there were plenty of pilferage around the place, Anastacio having been kept in the house because of a heavy rain which did not stop until about 11 o'clock.

Both defenses of alibi appear to be unconvincing. They did not impress the lower court. They do not offer us sufficient ground to accept them. The testimonies of both appellants and their witnesses can not prevail over the positive and straightforward declarations of Vicente del Rosario, Antonio del Rosario and Liwayway de Guzman, identifying unmistakably Claro Feliciano and Eligio de la Cruz as two of the malefactors who robbed them and raped Liwayway de Guzman. No explanation has been given or offered why Anastacio Castro was held up in the house of Eligio de la Cruz from 7 o'clock up to midnight by the heavy rain, which precisely began upon his arrival and stopped at about 11 o'clock, and why no heavy rain kept Claro Feliciano and his witness Julio Domingo from working in the field from sunset to midnight, pulling rice seedlings in a field in the same evening and in the same municipality of Sto. Domingo. The alibis of the two appellants appear to be self-contradicting and incompatible. Appellants were personally known to Vicente and Antonio del Rosario before the perpetration of the crime, and could hardly fail to recognize the robbers and rapists who, to outrage her, had to have personal, direct, intimate, bodily contact with her in a lighted room. She saw them when they were already inside the house, when they ordered her to lie face downward, when she was ordered to sit down, when at pistol's point she was ordered to bring out the money, when they ransacked the house, when she pointed to the tampipi where P280 in cash and clothes were taken by the accused, when they raised her chemise up to her waist to search her body for money, when she was dragged into the room where the criminals appeased their lust at her expense, when she put up ineffective resistance in the defense of her honor and dignity, and when, finally, she succumbed under the weight of her inevitable misfortune, the pitiable victim of brutal attacks which were stronger than the citadel of her womanly virtues.

Appellants committed the crime of robbery with rape punished by the Revised Penal Code with *reclusión temporal* in its medium period to *reclusión perpetua* (article 894, sub-paragraph 2). We do not accept the attendance of the aggravating circumstances pointed out in the brief of the Solicitor General, except that the accused were in band when they committed the crime. There being no mitigating circumstance to offset it, the penalty provided by law must be imposed in its maximum degree. Perpetrators of such heinous perversity deserve no less. They should permanently be banished from all intercourse with the society of good citizens and expiate their accursed crime to the full extent required by justice. No compromise with lawlessness shall be countenanced.

The lower court sentenced the appellants each to suffer a penalty of not less than ten (10) years and one (1) day of *prisión mayor* and not to exceed seventeen (17) years, four (4) months and one (1) day of *reclusión temporal*, pay 1/6 of the costs and to indemnify jointly and severally the offended parties in the sum of P3,491.00, without subsidiary imprisonment in case of insolvency because of the nature of the principal penalty.

Upon the facts proved, the Solicitor General recommends that, as provided by article 294, paragraph 2, of the

Revised Penal Code, the appellants should be punished with *reclusión perpetua* and that, pursuant to article 345 of said code, they should also be sentenced to indemnify Liwayway de Guzman in a sum this Court may deem proper to fix. The recommendation is in accordance with law.

In fixing the indemnity appellants should pay Liwayway de Guzman, the Court has taken into consideration the fact that in the cases of *People vs. Santiago*, (51 Phil. 68), and *People vs. De Guzman*, (51 Phil. 105), this Court had fixed the amount of P500 as indemnity to an offended party in cases of rape; while in *People vs. Manguiat and Sanqui*, (51 Phil. 406), it fixed the amount of P1,000. Considering not only the relative value of the present currency, but the change of circumstances since the decisions in the above mentioned cases were rendered and the boldness and frequency with which rapes are committed nowadays, the court has arrived at the conclusion that a much higher amount must be fixed.

The lower court's judgment is affirmed with the following modifications: (a) that the penalty appellants should suffer shall be *reclusion perpetua*; and (b) that, pursuant to article 345 of the Revised Penal Code, appellants should indemnify Liwayway de Guzman in the sum of P4,000. With costs against the appellants. Mr. Justice Hontiveros did not take part,

Moran, C.J., Feria, Pablo, Hilado, Bengzon, Briones, Padilla, and Tuason, JJ., concur,

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PARAS, J., concurring and dissenting:

While the appellants are, as round by the majority, guilty or robbery, their culpability as to the alleged crime of rape is open to serious doubts. This is perhaps the reason why the only rather perfunctory reference to the latter offense contained in the decision of the trial court is as follows:

"The only evidence in the record with regard to the crime of rape committed by the accused is the testimony of Liwayway de Guzman herself and the somewhat corroborative testimony of her husband and father-in-law who heard her say while in the room together with the accused Dominador Matias and Claro Feliciano not to abuse her and to pity her. However, both Dominador Matias and Claro Feliciano admitted that Liwayway was raped by their co-accused."

The act in question is supposed to have been committed between 8 and 9 o'clock in the evening of August 6, 1945. At midnight Vicente and Antonio del Rosario reported the occurrence in their house to the authorities. Early the next morning the matter was investigated, but as may be seen from the testimony of the investigators and from the very affidavits of said Vicente and Antonio del Rosario, father and husband respectively of Liwayway de Guzman (alleged rape victim), no mention or report whatsoever was made regarding the perpetration of rape. Although on August 8, 1945, Liwayway de Guzman subjected herself to a physical examination by a physician, the latter's certificate—hereinbelow quoted—snows that the inquiry was not made in order to find indicias of rape.

"1. This is to certify that Liwayway P. de Guzman (Mrs. Liwayway G. del Rosario), 20 years old, married and resident of the Darrio of Sto. Rosario, Sto. Domingo, Nueva Ecija was examined by me today August 8, 1945, about 5:00 p.m. at my dispensary in Talavera, Nueva Ecija, with the following findings:

(1) A black-colored patch of contusion on the ventral side of the left thigh, middle part.

(2) A black small patch of contusion on the top of the right shoulder joint.

"2. The above lesions were caused by non-cutting instrument, and may heal from 3 to 5 days without medical attendance."

According to Vicente and Antonio del Rosario, the accused Dominador Matias and Claro Feliciano alone entered the room of Liwayway de Guzman and both stayed therein for not more than ten minutes. Yet Liwayway testified

that the four accused assaulted her honor in said room. It may be true that Liwayway in fact screamed, but this does not necessarily mean that she was then being raped, much less by four men, for her screams could also have been due to the physical maltreatment inflicted by the robbers for the purpose of forcing her to disclose the hiding place of the family treasure.

The crime of rape is certainly an outrage more heinous than robbery, and the omission of the parties concerned to report the same at the first opportunity fairly leads to the suspicion that rape was inducted in the information as an afterthought undoubtedly calculated to bring about a conviction that carries a much heavier penalty.

The trial court believes that the lone testimony of Liwayway concerning the crime of rape is supported by the affidavits of the accused Dominator Matias and Claro Feliciano. However, as testified to by the witnesses for the prosecution in corroboration of the evidence for the defense, said affiants were victims of third-degree methods, with the consequence that no probative value should be attached to their affidavits.

Judgment modified; penalty increased.

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