

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DOMINADOR MANZANO, DEFENDANT-APPELLANT.

G.R. No. L-38449. November 25, 1982

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This is a case originally appealed to the Court of Appeals, convicting accused-appellant Dominador Manzano alias "Doming" of the crime of rape by the Court of First Instance of Pangasinan, Third Judicial District, Branch X, the dispositive portion of the decision reading as follows:

"WHEREFORE, this Court finds and so holds the accused Dominador Manzano, alias "Doming" guilty beyond reasonable doubt of the crime of Rape, as defined and penalized in Art. 335 of the Revised Penal Code, as amended, and there being present the aggravating circumstances of uninhabited place and nighttime, without any mitigating circumstance to offset the same, hereby sentences him to suffer an indeterminate penalty from (10) years, one (1) day of prision mayor, as minimum, to seventeen (17) years, four (4) months and one (1) day of reclusion temporal, as maximum, to indemnify the offended party, Jovita Nacional and her parents the sum of P10,000.00 as moral damages, to pay the offended party another sum of P5,000.00 as exemplary damages, by way of example or correction for the public good, without subsidiary imprisonment in case of insolvency, to suffer all the accessory penalties of the law, and to pay costs."

Since the penalty prescribed for rape is reclusion perpetua,[1] the trial court erroneously imposed the indeterminate sentence. The Indeterminate Sentence Law does not apply to persons convicted of offenses punished with death penalty or life imprisonment[2] The Supreme Court has the exclusive jurisdiction to review, reverse, modify or affirm on appeal the decision of the trial court rendered in a case involving an offense for which the penalty to be imposed is life imprisonment.[3] Hence, this case was certified to Us by the Court of Appeals to review the decision of the court a quo.

From the complaint filed by the offended party, Jovita Nacional, assisted by her father, the Assistant Provincial Fiscal filed with the Court of First Instance of Alaminos, Pangasinan an information charging Dominador Manzano alias "Doming" with the crime of rape committed as follows:

"That on or about November 28, 1968, in the municipality of Mabini, province of Pangasinan, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of violence and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of the complainant Jovita Nacional against her will to the damage and prejudice of the offended party in the sum of ₱ 10,000.00.

"All the contrary to law and with the aggravating circumstances of uninhabited place and darkness having been purposely sought by the accused in the commission of the crime."

Pleading not guilty to the charge upon arraignment, defendant submitted to trial. After trial, the evidence adduced by the prosecution, as succinctly stated in the People's Brief, are as follows:

"At about 5:00 o'clock in the afternoon of November 28, 1968, Jovita Nacional, the complainant, was sent by her mother to buy string beans at the house of Crespo Balmania about a kilometer away from their home in barrio de Guzman, municipality of Mabini, Pangasinan. After a fifteen minute hike, Jovita arrived at Crespo

Balmania's house. Jovita went up and saw Crespo, his wife, his children and the accused Dominador Manzano in the sala (pp. 5-6, t.s.n., Feb. U, 1969). Jovita told Crespo that she wanted to buy string beans and the latter called for his daughter Gloria to accompany the former in picking the string beans. Thereafter, Jovita went back to Crespo's house to pay for it but the latter told her she could have it for free. After thanking Crespo, Jovita started on her way back home (pp. 7-8, t.s.n., Feb. 11, 1969). After having travelled some distance, Jovita noticed that Dominador Manzano had followed and caught up with her after she had crossed the bridge about half-way home. Without much ado, the accused then snatched her, covered her mouth with his left hand, placed his right hand below the back of her knee joints and carried her uphill to an underbush about 40 meters from the edge of the road. All the time that Jovita was being carried by Dominador, she kept on struggling and boxing him. However, Dominador succeeded in carrying Jovita to the "underbush" (pp. 10-12, t.s.n., Feb. 11, 1969). Dominador placed Jovita on the ground with his hand still covering her mouth and his knees bended and pressed over her (p. 14, t.s.n., Feb. 11, 1969). Dominador then raised her dress and pulled down her panty with both his hands while she kept on struggling. Jovita then told Dominador to let her loose but was told that if she shouted, she would be killed (p. 15, t.s.n., Feb. 11, 1969). After which, Dominador, removed his pants, and after five minutes of struggle with Jovita, succeeded in inserting his penis inside her vagina (p. 16, t.s.n., Feb. 11, 1969). Jovita felt pain when Dominador's penis effected entry inside her vagina and which was removed only after 3 minutes. Having accomplished his purpose, Dominador stood up and warned Jovita that 'If this will be known by your father and mother, I will kill you.' (p. 17, t.s.n., Feb. 11, 1969). After Dominador left her, she put on her panty and painfully hiked home crying, arriving at her house after 6:00 o'clock in the evening (p. 18, t.s.n., Feb. 11, 1969). Jovita's worried mother asked her why she was benighted, crying, her hair dishevelled and her dress crumpled (p. 48, t.s.n., Feb. 11, 1969). At first, Jovita remained silent but upon being asked again, she finally told her mother that 'Cuya Doming' had 'forced her' after the bridge. And, when the mother inquired as to whether the accused was able to obtain 'her womanhood,' she answered in the affirmative. Jovita's mother then told her to remove her panty which was wet and bloody and ripped on one side (p. 20, t.s.n., Feb. 11, 1969; Exh. B).

"At about 7:00 o'clock in the evening, Jovita's father arrived home. He asked Jovita why she was crying. Jovita remained mute and it was her mother who related the sordid episode (pp. 27-28, t.s.n., Feb. 13, 1969). The father, together with his son, Justiniano, went to see Councilor Zosimo Ariston. However, on their way, they met the councilor who was accompanied by the accused (p. 29, t.s.n., Feb. 13, 1969). The father told the town official that the accused had forced his daughter, at the same time unsheating his bolo and made a move to strike the accused. However, Councilor Ariston pacified the father (p. 5, t.s.n., Feb. 20, 1969). Ariston then asked the accused if he had forced Jovita and the reply was a denial (p. 6, t.s.n., Feb. 20, 1969). When the councilor told Jovita's father that it would be best to bring the matter to court, the latter went to see Mayor Demetrio Braganza in the town that same evening. The mayor told the father that the investigation would be held in the morning. However, the father told his son to inform the mayor that it was better not to proceed with the investigation the following day, as the father was then thinking of 'killing' the accused. Hence, the mayor did not meet the father that day (pp. 33-34, t.s.n., Feb. 13, 1969).

"On December 2, 1968, Mayor Braganza inspected the wooded area where the accused had abused the offended party. Jovita was then advised by the mayor to go to the town so that her statement could be taken and she could be examined by a physician (pp. 34-35, t.s.n., Feb. 13, 1969). Her statement was taken by police authorities (Exhibit 1, p. 1, Folder of Exhibits for the defense). Thereafter, Dr. Virgilio Rodriguez, the municipal health officer examined Jovita physically, and who thereafter issued a medical certificate which contained the following findings:

'Jovita Nacional, 17 years old, single, student, resident of de Guzman, Mabini, Pangasinan

Pertinent Physical findings: Vaginal opening admits gloved forefinger with ease. Two fingers inserted with some difficulty. Hymenal laceration between 2 or 3 o'clock, healed.

Impression: Virginity lost; defloration, effected.' (Exhibit C, p. 2, Folder, of Exhibits for the prosecution)"

The defense of the accused-appellant is that the sexual intercourse on the evening of November 28, 1968 was consented to by the offended party, they (Dominador Manzano and Jovita Nacional) having been former sweethearts before Dominador got married to Erlinda Bimbo in January, 1968.

In his brief, appellant claimed that he and the offended party had known each other since childhood; that she had become intimate with him seven years before this case was filed in the court below; that although her house was more than a kilometer from that of the appellant's, they often meet each other in dances and in other social occasions until they fell in love.

Appellant further claimed that he was enticed by another girl, Erlinda Bimbo, while he was going steady with the offended party. And, although appellant was already married with said Erlinda Bimbo, the living memories of his affair with the offended party remained.

On the day of the incident, on November 28, 1968, at about 5:00 o'clock in the afternoon, appellant alleged that he was already in the house of Crespo Balmania when the offended party arrived to buy vegetables (string beans). Dominador testified that he talked with Jovita in the sala of Crespo's house for fifteen (15) minutes and they agreed to meet in a certain place, "just after the bridge." [4]

Thereafter, Crespo Balmania asked her daughter to accompany the offended party in gathering string beans which were given free to the latter. Jovita thanked Crespo, then bade him good-bye.

After Jovita left the house of Crespo Balmania, appellant declared that he followed Jovita and was able to catch up with her after the bridge as previously agreed. They went up the nearby hill and engaged in sexual intercourse. After their assignation, at about, six (6) o'clock in the evening, appellant and offended party parted ways.

From the above narration, appellant concluded: [5]

"Jovita must have arrived home late. She forgot all about the string beans. She was thus confronted by her mother. Jovita was forced to mention to her parents that she had sexual intercourse with her first love, Dominador Manzano, who had been married almost a year ago.

"The parents of the girl seized the opportunity of retaliating at the unfaithful Dominador. They built up the case of rape against him."

The trial court refused to give credence to the version of the defense, and accordingly rendered a decision convicting herein accused-appellant, the dispositive portion of which has been earlier indicated herein.

Unsatisfied with the decision of the court a quo Dominador Manzano appealed and assigned the following errors:

- The lower court erred in holding that the crime of rape was committed in the instant case.
- The lower court erred in holding that the charge for rape against defendant-appellant was a retaliation spawned by complainant's parents due to the marriage of Dominador Manzano to Erlinda Bimbo and not to their daughter who was defendant-appellant's prior sweetheart.
- The lower court erred in taking into consideration nocturnity and uninhabited place as aggravating circumstances.
- The lower court erred in awarding damages in favor of the complainant.
- The lower court erred in not acquitting the defendant-appellant.

The first two assigned errors rely mainly on the supposed sexual relation between Dominador Manzano and Jovita Nacional, mutually agreed and consented between them as former sweethearts. According to the appellant, Jovita

National was not forced nor violence inflicted upon her, as evidenced by the medical report that no bruises and contusions were found on the body of the offended party,[6] which only proves that she (Jovita) did not offer resistance or even reluctance to the intercourse. Thus, appellant submits that the charge of rape was to wreck vengeance against him, spawned by complainant's parents due to his (Dominador) marriage to Erlinda Bimbo and not to their daughter, Jovita Nacional.

We find no merit to appellant's claim, hence We hereby affirm the rejection thereof by the trial court. For indeed, We find in the recorded evidence clear and concrete facts and circumstances justifying the finding that rape was truly committed by appellant.

1. Jovita Nacional, in her direct and cross examination, consistently denied any amorous relation with the appellant whom she even respectfully addressed as "Cuya Doming."[7] She testified that she knows the appellant, only because he (Dominador) is her barrio-mate and that she is not engaged nor intimately related with him.[8]

The court a quo who observed the appearance and demeanor of the offended party declared that:

"She is a typical barrio-lass—shy, innocent, sincere, straightforward, with simple attire, fragile-looking....

While relating the facts and circumstances concerning most particularly the time she was abused by the accused, the offended party had tears in her eyes, and she spoke so softly as she was apparently ashamed and embarrassed to narrate the gruesome event

"Indeed, it must be very difficult for a young girl as the offended party, who is merely 18 years old and who should still be enjoying the freshness and innocence of youth, to expose herself to so much social humiliations and possible ridicule which could not be avoided of having been at one time a victim in a rape case. But, painful as it was, she chose to file the complaint to vindicate her honor and reputation.

"If it is true that she has been the alleged 'sweetheart' of the accused and that she has allegedly consented to the sexual act, it would not have been improbable for her to desist from filing this case or to prevail upon her parents not to proceed further with the proceedings. As it was alleged by the accused that he had been married since January, 1968, there does not appear any strong or cogent reason why the offended party should charge him with rape if she had really consented to the sexual intercourse, knowing as she alleged that he was married and therefore she could no longer force him to marry her by filing this case; and more, there is no showing that she and the accused had any quarrel or misunderstanding and therefore there is no showing that she was motivated by malice or vengeance."[9]

It is a rule well-settled that in crimes against chastity, conviction or acquittal depends almost entirely on the credibility of complainant's testimony since by the intrinsic nature of those crimes they usually involve only two persons — the complainant and the accused.[10] Thus, the above findings of the trial court as to credibility commands the highest respect from this Tribunal. To quote Our decision in *People vs. Villamada*,[11] "the principle invariably followed by this Tribunal that on the question of credence to which the conflicting versions of prosecution and defense are entitled, the answer given by the trial court is generally viewed as correct and thus entitled to the highest respect."

2. We find it unbelievable that appellant and the offended party were actually lovers, who, by their passion were lured to climb uphill and there consummate their carnal relation.

In the first place, appellant's claim that he was engaged with the offended party was not substantiated, either by testimonial or circumstantial evidence. The only corroborating witness who confirmed the relation between Jovita and Dominador was the latter's mother, whose testimony nevertheless, was plain hearsay, since she only "heard" that her son was secretly visiting somebody whom she "heard" as "Jovita." [12] There was not any love letters, mementoes nor pictures presented by the defense to attest to the veracity of appellant's pretension that "(a)lthough

they have known each other since childhood, the girl (Jovita) became more intimate with the boy (Dominador) 7 years ago before the trial in the court below." [13]

Secondly, if Jovita consented to having the sexual intercourse with appellant because they have been, before his (appellant) marriage, and continued to be, sweethearts, she (Jovita) would have kept the act a secret instead of revealing it to her mother.

Thirdly, it is highly improbable for a young girl, who is merely 18 years old, of good repute, shy and innocent, to allow herself or continue to be the girlfriend of a married man.

Lastly, if it was true that Jovita was the girlfriend of the appellant and had assented to the sexual intercourse, there is no plausible reason why she should go home crying, with dishevelled hair, crumpled dress and ripped panty. [14]

3. Appellant, in his futile attempt to bolster his contention that there was a consensual intercourse, harped on the absence of force or violence inflicted upon the offended party. According to him (appellant), "(f)orce or violence suggests bodily harm, physical injuries-slight or serious-inflicted upon the body of the person. The medical report does not show any sort of injury or wound upon the body of Jovita. In other words, she was unscathed. There is reason to believe that she did not offer resistance or even reluctance." [15]

The contention is untenable. Jovita positively declared in no uncertain terms that she struggled and boxed the appellant. [16] This fact was corroborated by the complainant's mother who testified that when Jovita arrived home, the latter was crying, her hair dishevelled and her dress crumpled. [17] The physical evidence, moreover, confirmed this fact. The parity of Jovita shows a rent of about six (6) inches on the right side. [18]

The absence of any superficial abrasion or contusion on the person of the offended party does not militate against the claim of the latter whose clear and candid testimony bears the badges of truth, honesty and candor. As the Supreme Court said in *People vs. Gan*: [19]

"... His argument that since the medical findings does not show any 'external physical injuries' on the body of the offended, it is evident that the latter did not resist, is not persuasive. The medical testimony shows that the offended girl sustained physical injuries in her hymen which, according to Dr. Lorenzo Goco, showed 'complete laceration at 2 o'clock, 6 o'clock and 10 o'clock positions, indicating a tearing of the hymen completely at the base of the vagina.' Considering that the medical examination was done a few days after the victim was criminally abused, it is probable that any superficial abrasion or contusion on her person may not be readily visible. At any rate the absence thereof does not militate against the claim of the ravished woman, if her narration carries the impeccable imprimatur of sincerity and veracity. "

Besides, the absence or presence of visible signs of injury on the victim depends on the degree of force employed by the accused to consummate the purpose which he had in mind to have carnal knowledge with the offended woman. It is an accepted rule that the force employed in rape need not be so great nor of such a character as could not be resisted. It is only that the force used by the accused is sufficient to enable him to consummate his purpose. [20]

4. It also appears from the records that the appellant's mother, Balbina Sanchez, went to the house of the victim's parents to ask for a settlement of the case; that she was with her husband in going to the residence of the parents of the offended party to have the case settled amicably and that they even asked Jose Balmania and Illuminada de Guzman to intercede for them in settling the case but nothing materialized from the proposal.

It may be true that Demetrio Braganza, Mayor of Mabini, advised the mother of the accused to settle the case amicably, which was also corroborated by Councilor Zosimo Ariston, a witness for the prosecution. But the fact

remains that the parents of the accused took steps in approaching the parents of the offended party for a possible compromise settlement. And under the Rules of Court, an offer of compromise may be received in evidence as an implied admission of guilt. (Rule 130, Section 24, Rules of Court.)

We reject appellant's argument that it was his mother and not he himself who proposed the offer of compromise and that it was made by her without his knowledge or consent and only for the purpose of avoiding rigorous trials, costly litigations and to protect the name of the girl from public ridicule and expose. It would be utter incredulity to consider that the mother of the accused, knowing her son to be already a married man, would be more interested in saving the honor of the innocent girl than in saving the neck of her son from the gallows.

5. The lame explanation of the accused-appellant that the charge of rape was a vengeance or retaliation sought by Jovita's parents against him because he married another girl and not their daughter, warrants scant consideration. We agree with the trial court that the offended girl filed the charge of rape against the accused to vindicate her honor and reputation and that she was not motivated by malice or vengeance in doing so. In the same light that by our native customs, morals and traditions which have inculcated the innate modesty, humility and purity of Filipino womanhood, the Filipina would not subject herself to public ridicule, shame and dishonor as a victim of rape if it were not true, her parents would by the same token avoid as much as possible such scandal and infamy unless the rape was actually committed. There is no showing that the parents of Jovita, the rape victim, were so vile and heartless to expose their daughter to public humiliation and ridicule just so they would have their vengeance or retaliation against the accused for marrying another girl many months before the rape was committed, assuming that Jovita and the accused had previously been sweethearts and were engaged to be married. But this assumption was rejected totally by the trial court and Jovita herself stoutly denied such love affair, hence there is no basis for her being jilted, much less for the supposed vengeance or retaliation on the part of her parents.

On the issue of aggravating circumstances, there need be no lengthy discussion for the imposition of the proper penalty since the crime charged is punishable by the indivisible penalty of reclusion perpetua. However, in view of the exemplary damages awarded by the trial court, We deem it necessary to resolve the presence or absence of aggravating circumstances considering that an award of exemplary damages is proper only when there exists one or more aggravating circumstances. There is no basis for awarding exemplary damages when not even one aggravating circumstance is established.[21]

Two circumstances, nocturnity and uninhabited place, were found by the trial court to have aggravated the commission of the crime. As regards nocturnity, We hold and so rule that it was an error for the court a quo to have considered the same as an aggravating circumstance. As correctly observed by the Solicitor General in the People's Brief:

"There is nothing in the record which would indicate that the crime of rape was committed at night. For, by the word "nighttime" should be understood to mean that period of darkness beginning at end of dusk and ending at dawn. Nights are from sunset to sunrise, (p. 311, Revised Penal Code, Book I, 1967 Ed., Luis B. Reyes). Since it is admitted by both Jovita and defendant-appellant that the sexual intercourse occurred at 6:00 o'clock p.m., it can be said that dusk was just beginning and there was still twilight. Darkness had not completely set in, and therefore, the night had not yet began. And, even assuming *arguendo*, that the crime of rape was committed at night, there is no evidence on record that it was especially sought for by the defendant-appellant to insure the commission of the crime (People vs. Pardo, 79 Phil. 568). "[22]

We affirm the appreciation by the trial court of the aggravating circumstance of uninhabited place. The evidence is clear that the place where the assailant brought the offended party for the fulfillment of the heinous act was about 40 meters away from the road. The place was full of stones and under bushes. The trail was stony all the

way from the road and there were also big boulders.[23]As described by Mayor Demetrio Braganza, the way was thick with bushes and trees and you have to climb up for it is a hill.[24] According to the offended girl, the distance from her house to the house of Crespo Baimania was more than a kilometer and the rape took place mid-way between said house of Crespo and the house of her brother where she was then living.[25] In *People vs. Mendoza*, 100 Phil. 811, desoblado was aggravating in robbery with homicide, the house nearest to that of the victim was 400 meters distance. In *People vs. Saquing*, 30 SCRA 834, where the killing was done in a secluded place at the foot of the hill, forested and uninhabited, the nearest house being about 200 meters away, the crime is attended by the aggravating circumstance of uninhabited place. Since the accused himself states that the nearest house was that of Crespo Balmania about 300 meters away, We agree with the trial court that the place was purposely sought and chosen by the appellant to avoid detection and preclude any interference to his bestial desire.[26]

We also affirm the award of moral damages to the offended party by the lower court. This is proper and legally justifiable because "(a)s a victim of rape, complainant undeniably felt mental anguish and distress. And having to face public trial that would expose the lurid details of her unhappy experience, that too had the effect of besmirching her reputation to warrant the award of moral damages, and inseparable liability to the punitive portion of the sentence imposed on all convicted rapists." [27]

Anent the exemplary damages, there being the aggravating circumstance of uninhabited place as basis for its imposition, the lower court is justified in awarding exemplary damages, by way of example or correction for the public good, in addition to moral damages. (Art. 2229, New Civil Code).

WHEREFORE, IN VIEW OF ALL THE FOREGOING, the decision of the trial court is hereby MODIFIED to the effect that the accused-appellant is sentenced to suffer the penalty of reclusion perpetua. The award of damages to the offended party is affirmed in toto. Costs against accused-appellant.

SO ORDERED.

Makasiar (Chairman), Aquino, Concepcion Jr., Abad Santos, De Castro, and Escolin, JJ., concur.

[1] Art. 335, Revised Penal Code.

[2] Sec. 2, Act No. 4103, as amended.

[3] Sec. 17, Judiciary Act of 1948, as amended by R.A. 5440,

[4] t.s.n., p. 5, February 24, 1969.

[5] Appellant's Brief, p. 8.

[6] Exhibit C, also t.s.n., p. 5, Feb. 13, 1969.

[7] t.s.n., pp. 3, 31, 33 and 38, Feb. 11, 1969; pp. 4, 6-7, Feb. 13, 1969.

[8] Ibid., p. 31, Feb. 11, 1969; pp. 6-7, Feb. 13, 1969.

[9] Decision, p. 10, Records, p. 80.

[10] *People vs. Bordaje*, 99 SCRA 388; see also *People vs. Quiazon*, 78 SCRA 513, *People vs. Ilagan*, 64 SCRA 170.

[11] 78 SCRA 145.

[12] t.s.n., pp. 20-31, Feb. 25, 1969.

[13] Appellant's Brief, p. 2.

[14] t.s.n., p. 10, Feb. 10, 1969; p. 51, Feb. 11, 1969; Exhibit "B". (italics supplied).

[15] Appellant's Brief, p. 14.

[16] t.s.n., p. 14, Feb. 11, 1969.

[17] t.s.n., p. 10, Feb. 10, 1969.

[18] t.s.n., p. 51, Feb. 11, 1969, Exhibit "B".

[19] 46 SCRA 667, italics supplied.

[20] Ibid., citing U.S. vs. Villarosa, 4 Phil. 434; People vs. Momo, 56 Phil. 86; People vs. Rivera, 93 Phil. 137.

[21] People vs. Ruiz, 110 SCRA 155; Perez vs. CA, 13 SCRA 445.

[22] pp.- 12-13.

[23] t.s.n., p. 59, February 11, 1969.

[24] t.s.n., pp. 30-31, February 19, 1969.

[25] t.s.n., pp. 5-6, 12-13, February 11, 1969.

[26] t.s.n., p. 5, February 24, 1969.

[27] People vs. Bautista, 102 SCRA 483.

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