

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CHARLIE AGRIPA, DEFENDANT-APPELLANT.***G.R. No. L-48625. June 29, 1984*

Ponente: FERNANDO, C.J.

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A prosecution for rape invariably elicits the sympathy of this Court for the complainant, much more so when she is quite young. That is to be expected for, if proven, the assault on the dignity and honor of a human being is not to be tolerated or countenanced. It calls for severe condemnation. For such a complaint, however, to prosper and the accused to be convicted, the law - and quite rightly at that - expects proof of the most satisfactory character. In the decision rendered a day ago by this Court, *People v. Bihasa*,^[1] the opinion being penned by Justice Gutierrez, Jr., there is this terse but accurate summation of the prevailing doctrine: "The crime of rape is not to be presumed. Consent, and not physical force, is the common origin of the acts between man and woman. The moral conviction that may serve as basis of a finding of guilt in criminal cases is that which is the logical and inevitable result of the evidence on record, exclusive of any consideration. Short of this, it is not only the right of the accused to be freed, it is even more our constitutional duty to acquit him."^[2]

It is from that standpoint that this appeal from a conviction of rape must be judged. The plight of complainant Alicia Benitag is, of course, to be deplored. Nonetheless, a searching and careful study of the evidence of record cannot justify a finding of guilt. The requisite standard for such a conclusion has not been met; the constitutional presumption of innocence^[3] has not been overcome. As will be explained, the conviction cannot be sustained.

We start with the evidence as offered by the complainant herself. Complainant, then fifteen years of age, having been born on November 28, 1961,^[4] was at Daraga Church on the evening of October 20, 1976.^[5] She attended mass.^[6] She was in an unhappy frame of mind, feeling deeply hurt by the scolding of her parents early that morning.^[7] She left her house to go to the Divine Word High School where she was a student, but she did not even take her lunch.^[8] She stayed until about 5:30 in the afternoon.^[9] She then went to the Daraga Church.^[10] Feeling still quite depressed, she entertained thoughts of committing suicide.^[11] Fortunately, there was an elderly man who on noticing her troubled state of mind, advised her against it because it is a bad thing.^[12] His words caused her to go back to church to pray.^[13] When she left the church, two men, whom she noticed eyeing her earlier, followed her.^[14] They asked for her name; she did not answer, for they were strangers.^[15] She did not know them. She later found out that they were Romeo Paleza and Charlie Agripa.^[16] She went back to church. Then, after awhile, she left. The two pulled her, one on each hand.^[17] They told her not to shout, because if she shouted they will kill her.^[18] It was appellant Charlie Agripa who made the warning or threat, which filled her with fear.^[19] They kept pulling her towards the back of a big house.^[20] One of them, Romeo Paleza, said that she should sleep in the house because he has also a sister there and his mother.^[21] She did not agree.^[22] She was pulled to a place where there are banana plants and grasses, the distance of which is about 20 to 30 meters away.^[23] While Paleza was removing his tee-shirt she ran away.^[24] He chased her and was able to catch up with her.^[25] He kept on kissing her. He told her to sit down, and when she did not, he pushed her.^[26] That caused her

to assume a sitting position, unable to stand up as he held her shoulders.[27] He then pushed her anew, as a result of which she fell.[28] She was about to shout, but he warned her that he would kill her.[29] She tried to avoid his kisses by moving her head right and left.[30] Making use of his strength, he was able to lay her flat on her back.[31] She kept on kicking him, but to no avail.[32] He pulled her clothes upward.[33] He was thus able to disrobe her.[34] She kept on resisting, but he finally succeeded in having sexual intercourse.[35]

As testified to by complainant, after such assault, she was left alone by Paleza, who told her to sleep in a big house near the church.[36] She tried to escape because she was afraid that something else could happen to her.[37] She was unable to do so as she was pursued.[38] She fell down on a sitting position on the ground, and then appellant Agripa held her right hand to push her towards what she called the big house.[39] Again, she was able to escape momentarily, but again she was caught.[40] Then she was pushed inside the house.[41] Appellant closed the door and for sometime waited outside.[42] She tried to open the door, but she could not, because he [Agripa] was still there.[43] When asked what she did, her answer was: "I was not able to shout because if I did he will kill me." [44] When asked what she did later, her reply was: "At that time, I was already very tired, and I fell asleep in the house." [45] When she "woke up, [appellant] was already on top of [her]." [46] He was "doing the sexual act." [47] She "pushed him away, but she could not." [48] Then the next question was: "What transpired after that?" Her response: "He left me suddenly." [49] When she was certain he was no longer there, she went back to the Daraga Church about midnight.[50] As there was nobody inside, she just sat on a bench outside until 4:00 o'clock of the next morning.[51] A sacristan approached her and called for a madre.[52] Then she went to the convento where she was questioned by a madre.[53] She stayed there until 11:00 o'clock. At that time, her father came and took her back to the house.[54] She was taken to a clinic at Daraga and was given a medical examination.[55] The medical certificate showed the following findings: "1. Hymen - not intact, presence of old lacerations, no fresh bleeding noted. 2. Introitus - right side, the presence of contusions, 1 cm. in its widest diameter." [56] On cross-examination, when counsel for the appellant asked whether she could not sleep, as she was afraid, this was her answer: "I fell asleep because I was already tired." [57] She was likewise asked whether it was a fact that when appellant was on top of her what she did was to embrace him, and her answer was no. [58]

In the appealed decision, the above testimony of complainant was summarized. Then, reference was made to two other prosecution witnesses, Faustino Llanto and Teofilo Adlawan, who "did not help much the case of the prosecution. Llanto denied having seen any rape. Adlawan only corroborated Alicia Benitag's testimony as to how she was brought in the ground floor of the big house. He knocked at the door of said house but Charlie Agripa told him not to get inside as there was a person inside. Adlawan took Alicia to the sisters the early morning but she refused to eat." [59] The other prosecution witness, Francisco Benitag, the father of complainant, "only testified as to how he found her daughter upon being called by the parish priest of Daraga, Albay." [60] It was he who signed the complaint. [61]

As for the defense, the decision of the lower court had the following to say: "The prosecution having rested, Charlie Agripa took the witness stand. He denied having had any sexual intercourse with Alicia Benitag that night of October 20, 1976, although he admitted that he saw Alicia Benitag in the ground floor of the house of Harry Guevarra that evening when Faustino Llanto told Mrs. Harry Guevarra of her presence, as she was asking to be allowed to sleep that evening in the house, which was refused. So she left with her companions, Romeo Palez (sic) and Teofilo Adlawan. Charlie Agripa asserted that he works with the Guevarras and in the early morning of October 20, 1976, he was packing abaca products up to 12:00 P.M. which were to be shipped urgently the following day." [62] Insofar as the testimony made as to his hours of work, it was, according to the decision, "substantially corroborated" [63] by witness Editha Red for the defense. Also, "she claimed that a certain female wanted to sleep that evening in the house per information given by Llanto; she did not herself go down to see her. Editha testified that Charlie slept near the door of the sala by the garage on the second floor of the house and he

did not go down, [an assumption based on] Editha [having] slept at 1:00 A.M. already (sic)."[64]

The lower court made clear that its conclusion that the guilt of the accused had been proven arose from its being "fully persuaded by Alicia's narrative that when she woke up she found Charlie Agripa on top of her and thru threat of death, despite her resistance, was able to have carnal knowledge of her." [65] As previously stated, complainant's testimony, considered with other relevant facts, does not suffice, in the opinion of the Court, to overcome the constitutional presumption of innocence. Hence the reversal.

1. Appellant, as noted at the outset, invoked the constitutional presumption of innocence, the evidence against him, according to his counsel, not satisfying the requirement that it should be beyond reasonable doubt. In support of such a proposition, he assigned as errors the fact that the lower court ought to have given credence to the uncorroborated testimony of complainant which was characterized by glaring contradictions, hence inconclusive and improbable; in not taking into account the testimony of the attending physician who admitted during the trial that she failed to see any contusions, hematoma, bruises or indications in the person of complainant to indicate the use of force; in not giving credence to the testimony of prosecution witness, Faustino Llanto, who testified that accused-appellant did not rape the offended party. It is his submission then that appellant ought to have been acquitted.

2. According to the records of the case, on June 8, 1977, an information was filed by Provincial Fiscal Juan C. Salazar charging appellant and a certain Romeo Paleza of the crime of rape, such information in effect reiterating the allegations of the complaint filed by her father on October 28, 1976 that both appellant Charlie Agripa and a certain Romeo Paleza, "conniving and confederating [with] one another for a common purpose, with lewd designs and with the use of force, threats, intimidation and trickery," [66] did rape appellant, then fifteen years of age.

3. The arraignment was set for October 5, 1977, with both accused pleading not guilty to the information for rape. [67] Then on October 25, 1977, the accused Romeo Paleza, assisted by his counsel, Attorney Romeo Ricafort, asked the lower court to withdraw his original plea of not guilty in order that he may plead guilty to the lesser offense of simple seduction. [68] He accepted full responsibility for the sexual intercourse with complainant which, according to him, was committed "with the offended party voluntarily." [69] He was, therefore, found guilty of the offense of simple seduction. There was no change of heart on the part of appellant, and the case against him proceeded. It is worth noting that when complainant testified, she was quite categorical in saying that after she left the church, two men followed her, neither one of whom she knew. She was referring to appellant and Paleza. From the decision of the lower court convicting the latter, however, of simple seduction, it would appear that her statement, to say the least, was grossly inaccurate as to Paleza.

4. It cannot escape notice likewise that the detailed testimony of complainant always referred to both Paleza and appellant acting in concert. They pulled her; they threatened her; they led her towards the big house, later on identified as belonging to a certain Harry Guevarra, where appellant was working. [70] In her testimony, however, she was quite categorical that Paleza said such house belonged to his mother [71] and that he had a sister there. The carnal act with Paleza, however, took place outside such house in a place "where there were banana plants and grasses." [72] Prior to such occurrence, Paleza told appellant to leave, and he did so. [73]

5. It should not also escape notice as to how complainant narrated the occurrence of her being raped. In the case of Paleza, thirty-six questions covering three and one-half pages of the stenographic notes [74] were asked. Complainant, therefore, could answer in a manner both explicit and graphic as to how she was compelled to submit through force to his desires. None-theless, her detailed version could hardly be considered accurate considering that Paleza was convicted of simple seduction. To repeat, contrary to her assertion then, he was not a stranger. Seduction presupposes at the very least that the culprit must have been known by the victim. On the other hand, as far as appellant is concerned, what is readily noticeable is that only twelve questions were asked on direct examination. [75] What is worse, only three questions dealt precisely with the fact of rape. [76] First she was asked, after falling asleep, when she did wake up. Her answer was that "he was already on top of

[her]."[77] That "he", in her answer to the next question, was appellant.[78] When she was asked what he was doing, this was her answer: "He was already doing the sexual act with me and I had no more panties." [79] On cross-examination, as noted earlier, when she was asked whether it was a fact that when appellant was on top of her what she did was to embrace him, her answer was in the negative.[80] That was all. Comparing such in-conclusive testimony, in effect adducing a conclusion rather than stating a fact, there is highly-persuasive force to the contention of appellant that no rape was committed.

6. In the appealed decision of the lower court, the testimony of witness Editha Red, for the defense, to the effect that a certain female who turned out to be the complainant wanted to sleep that evening in the house of the Guevarras, was given credence by the lower court. Further, according to the lower court decision: "She [complainant] did not even know Charlie Agripa [appellant] whom she accidentally encountered near the Daraga church the evening of October 20, 1976. She had no place to go and sought shelter in the big house, in the ground floor of the house of Harry Guevarra, where only Charlie Agripa and an old man were." [81] Since, as made clear in the decision that the case against appellant would prosper or not on the credence to be accorded her testimony, it follows that appellant had made out a case for acquittal, his guilt not being shown beyond reasonable doubt. The glaring and mani-fest contradictions in her testimony, to repeat, casts serious doubt as to the truth of her accusation that rape was committed.

7. The second error assigned, based on the testi-mony of the attending physician, Dr. Lydia Rogando, who examined the complainant, is to the effect that credence should have been accorded to her conclusion that there were "no signs of a contusion, hematoma, bruises or signs of finger grips when she examined complainant the next day." The medical certificate reads as follows: "1. Hymen - not intact, presence of old lacerations, no fresh bleeding noted. 2. Introitus - right side, the presence of contusion, 1 cm. in its widest diameter." [82] On cross-examination, however, she further clarified such report. She used the term "old lacerations" because "a new laceration would not look like that." [83] She added: "It was already healed and I presumed that it healed long before my examination - probably one or 2 months before." [84] She likewise admitted that she did not see "any contusion or hematoma appearing on both legs or thighs of [Alicia Benitag]." [85] Moreover, she answered affirmatively the question that if a woman were forced to engage in sexual intercourse, notwithstanding her refusal and her resistance, there would be signs of hematoma and contusion in her legs and thighs, which would still appear two or three days after the alleged commission of rape. [86] She answered "none" to the question: "You did not find contusion on the thighs and legs of the patient?" [87] Nor was there any at the back. [88] When asked as to whether she found bruises, this was her reply: "Not even bruises. I did not see any." [89] It must be remembered that she was medically examined on October 23, 1976, three days after the occurrence of the alleged rape. [90]

8. The third error assigned is that the testi-mony of Faustino Llanto, an impartial prosecution witness, to the effect that the accused-appellant did not rape the offended party, should be given credence. As noted earlier, the Court itself appeared to be of the same mind, not only with witness Faustino Llanto, but also with witness Teofilo Adlawan of the prose-cution. As stated in the decision: "Faustino Llanto and Teofilo Adlawan did not help much the case of the prosecution. Llanto denied having seen any rape. Adlawan only corroborated Alicia Benitag's testimony as to how she was brought in the ground floor of the big house. He knocked at the door of said house but Charlie Agripa told him to get inside as there was a person inside." [91]

9. In the light of what has been stated before, there is no need to inquire as to the defense of alibi. The conviction must rest on the strength of the evidence for the prosecution, not on the weakness of the testimony of the defense. To warrant conviction, proof beyond reasonable doubt must be established by the State. In the absence of such a showing, the constitutional presumption of innocence stands in the way of a finding of guilt. Reversal of the judgment of the appealed decision is thus indicated.

10. This opinion may fitly close with this excerpt from the recent decision in *People v. Gabiana*: [92] "The fundamental right to the presumption of innocence calls for the utmost respect. So it has been the consistent ruling of this Court. It follows, to paraphrase *People v. Dramayo*, that accusation may not be equated with

guilt. The prosecution must successfully discharge the burden of proof that the offense had been committed and the person responsible for that commission is the accused. The standard has always been proof beyond reasonable doubt. That goes back to the 1903 decision of *United States v. Reyes*. While absolute certainty is not demanded by law for the conviction to be sustained, 'moral certainty,' in the language of *United States v. Lasada*, 'is required, and this certainty is required as to every proposition of proof requisite to constitute the offense.'"[93]

WHEREFORE, the decision is reversed and the defendant-appellant is acquitted. His immediate release is ordered unless there is valid legal cause for his continued detention. No costs.

Aquino, Concepcion, Jr., Guerrero, Abad Santos, Escolin, and Cuevas, JJ., concur.

Makasiar, J., did not take part.

[1] G.R. No. 63452, June 25, 1984, 9.

[2] *Ibid.* The opinion cited *U.S. v. De Dios*, 8 Phil. 279 (1907) and *People v. Maisug*, L-22187, March 28, 1969, 27 SCRA 742.

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

[4] T.s.n., Session of October 26, 1977, 2.

[5] *Ibid.*, 3.

[6] *Ibid.*

[7] *Ibid.*, 4.

[8] *Ibid.*, 4-5.

[9] *Ibid.*, 5.

[10] *Ibid.*

[11] *Ibid.*

[12] *Ibid.*

[13] *Ibid.*, 6.

[14] *Ibid.*

[15] *Ibid.*

[16] *Ibid.*

[17] *Ibid.*, 7.

[18] *Ibid.*

[19] *Ibid.*

[20] *Ibid.*, 8.

[21] *Ibid.*

[22] Ibid.

[23] Ibid.

[24] Ibid, 9.

[25] Ibid.

[26] Ibid.

[27] Ibid.

[28] Ibid.

[29] Ibid.

[30] Ibid, 10.

[31] Ibid.

[32] Ibid.

[33] Ibid.

[34] Ibid.

[35] Ibid, 11.

[36] Ibid, 12.

[37] Ibid.

[38] Ibid.

[39] Ibid.

[40] Ibid.

[41] Ibid, Session of October 28, 1977, 3.

[42] Ibid.

[43] Ibid.

[44] Ibid.

[45] Ibid, 4.

[46] Ibid.

[47] Ibid.

[48] Ibid.

[49] Ibid.

[50] Ibid, 5.

[51] Ibid.

[52] Ibid.

[53] Ibid.

[54] Ibid, 6.

[55] Ibid.

[56] Exhibit C.

[57] Ibid, 15.

[58] Ibid, 16. The "no" was in capital letters and enclosed in parenthesis is this phrase: "I kept on pushing him away from me and I even uttered bad words to him." Ibid.

[59] Decision of Lower Court, 2.

[60] Ibid.

[61] Ibid.

[62] Ibid.

[63] Ibid, 3.

[64] Ibid.

[65] Ibid.

[66] Criminal Case Record, 1.

[67] Ibid, 91.

[68] Ibid, 116.

[69] Ibid. There is no need in this case to inquire as to the power of the lower court to convict Paleza of simple seduction on a plea of guilty to the charge of rape through the use of force. Cf. *People v. Castro*, L-33175, August 19, 1974, 58 SCRA 473; *People v. Ramirez*, L-30635-6, January 29, 1976, 69 SCRA 144.

[70] T.s.n., Session of October 26, 1977, 7-8.

[71] Ibid, 8.

[72] Ibid.

[73] Ibid.

[74] Ibid, 9-12.

[75] Ibid. Session of October 28, 1977, 3-4. The twelve questions were asked beginning on the lower half of page 3 up to more than just a half of page 4.

[76] Ibid, 4.

[77] Ibid.

[78] Ibid.

[79] Ibid.

[80] Ibid, 16.

[81] Decision of the Lower Court, 3.

[82] Exhibit C.

[83] T.s.n., Session of November 25, 1977, 6.

[84] Ibid.

[85] Ibid.

[86] Ibid.

[87] Ibid.

[88] Ibid.

[89] Ibid.

[90] Medical Report, Exhibit C.

[91] Decision of Lower Court, 2.

[92] No. L-39716, September 30, 1982, 177 SCRA 260. *People v. Dramayo*, L-21325, October 29, 1971, is reported in 42 SCRA 59; *United States v. Reyes* in 3 Phil. 3; and *United States v. Lasada*, a 1910 decision, in 18 Phil. 90.

[93] Ibid, 264.

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