

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REYNALDO GODOY Y MONTEVERDE, DEFENDANT-APPELLANT.***G.R. No. L-31177. July 15, 1976*

Ponente: FERNANDO, J.

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As has happened ever so often in rape cases, while the fact of sexual intercourse is not denied, the defense raised is that there was consent on the part of complainant. So it is in this appeal by the accused Reynaldo Godoy y Monteverde, sentenced to reclusion perpetua after his guilt was adjudged. Nor would his counsel have this Court rely on his word alone. They did carefully analyze the evidence offered by the prosecution to demonstrate that the constitutional presumption of innocence was not overcome.^[1] A thorough appraisal of the evidence of record would sustain the contention earnestly pressed on this Tribunal that the stage of moral conviction as to the culpability of appellant had not been reached. What was narrated by complainant is deficient in vital respects and is marred by grave inconsistencies when compared with the affidavit subscribed to by her. She could have called other witnesses to corroborate her version, but she failed to do so. Two impartial witnesses, the examining physician and the policeman to whom she complained, testified to facts that did cast doubt on the veracity of her version. Under the circumstances, the mind cannot rest easy on imposing the life sentence on a young man then barely eighteen when the alleged misdeed was committed and thus expiate a crime that had not been satisfactorily proven. We have to acquit.

The trial court, impressed by what it considered the straightforward testimony of complainant, accepted as proven facts her version of the incident. According to the appealed decision: "The evidence for the prosecution shows that on September 17, 1967, the offended party Cecilia Lagmay was waiting for a ride going to Quiapo at the Kamuning Road near its intersection with K-E Street at Kamuning in Quezon City. While she was waiting for a ride, the defendant Reynaldo Godoy and Arturo Bispo were standing near her and she noticed that these two men seemed to have bad intentions because they were staring at her. These two men asked Cecilia Lagmay where she was going and she told them that she was going home. It was raining and it was then about 8:30 o'clock in the evening. When she wanted to leave the place Reynaldo Godoy held her while Bispo went to get a taxi. Some moments later, Bispo arrived with a taxi which stopped by the side of Cecilia Lagmay and the defendant. Upon the arrival of the taxi Godoy and Bispo forced Cecilia Lagmay to ride with them in the taxi. Once inside the taxi the driver started the motor vehicle. She was brought to a place which she later discovered to be at Bernardo Park near the Quezon City police Headquarters in Quezon City. She could not shout while they were inside the taxi because her mouth was covered by Bispo. They alighted from the taxi and the two men brought her to a broken-down car where she was made to sit. She wanted to shout but the two men covered her mouth. Later, Bispo kissed her and while Bispo was kissing her, Godoy mashed her breast. Armed with a sharp pointed instrument, Godoy threatened her with bodily harm if she could not yield her body. She struggled and resisted the overtures of Reynaldo Godoy and because of her resistance Godoy boxed her left arm and her thighs. [After the accused divested himself and herself of their intimate garments and further boxed her in the process because of her continued resistance, he] inserted his penis into her vagina and had sexual intercourse with her. As a result of

the sexual intercourse her private parts bled profusely. After the incident she went to the house of her aunt but because the aunt was already asleep she went to a neighbor's house and went to her aunt's house the following morning. At the neighbor's house she narrated her sad experience. When she was awakened the following morning she related to her auntie what happened so her auntie accompanied her to the police headquarters of Quezon City for the purpose of filing the complaint."^[2]

In fairness to the trial court, it did not ignore what was testified to by the defense but found it unpersuasive. It did categorically state: "After weighing the evidence of the prosecution and the defense, the Court accepts the version of the prosecution."^[3] The counsel for the defense,^[4] in their able brief, subjected the version of the prosecution to an intensive scrutiny and found it wanting on several points. Thus they managed to raise well-founded doubts on the accuracy of the story based on her own affidavit, introduced by her in evidence,^[5] and her failure to call to the stand two vital witnesses who could lend support to her testimony, her aunt and the neighbor, with whom she complained and took refuge early on that fateful morning. Moreover, counsel likewise pointed to two impartial witnesses, the examining physician and the policeman to whom the complaint was made in the first instance. Both of them referred to facts that cast serious reflection on the veracity of her allegations. They could very well rely, therefore, on the constitutional presumption of innocence. That they did and managed to perform quite a creditable job. A careful study of the evidence of record sustains their plea that the verdict ought to have been one of acquittal. We are, as earlier stated in agreement.

1. The rule is well-settled that the conclusion reached by a trial court on the question of credibility is entitled to great weight and should ordinarily be respected, as it is in a better position to decide such matter, having seen and heard the witnesses themselves and having observed their behavior and manner of testifying, unless a fact or circumstance of weight or influence has been overlooked and its significance misinterpreted.^[6] As restated in *People v. Gumahin*,^[7] "the findings of the lower court which had the opportunity to see, hear and observe the witnesses testify and to weigh their testimonies will be accorded the highest degree of respect by this Tribunal."^[8] Such a rule, however, as was emphasized in *People v. Macaraeg*,^[9] "cannot rise above the constitutional presumption of innocence which can only be overcome if the proof of guilt is beyond reasonable doubt."^[10] One thing is thus crystal-clear. To quote from *People v. Dramayo*:^[11] "Accusation is not, according to the fundamental law, synonymous with guilt. It is incumbent on the prosecution to demonstrate that culpability lies. Appellants were not then even called upon to offer evidence on their behalf. Their freedom is forfeit only if the requisite quantum of proof necessary for conviction be in existence. Their guilt must be shown beyond reasonable doubt. To such a standard, this Court has always been committed. There is need, therefore, for the most careful scrutiny of the testimony of the state, both oral and documentary, independently of whatever defense is offered by the accused. 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."^[12]

2. On a more specific level, with reference to rape cases where the offense is alleged to be committed by the use of force, "there must be," as succinctly put in *People v. Joven*, ^[13]a showing of compulsion being resorted to and coercion being employed."^[14] In the early case of *United States v. De Dios*,^[15] a 1907 decision, Justice Torres, who spoke of Pacheco as a "learned commentator," included in his opinion this excerpt from that author's work: "The crime of rape is not to be presumed; consent and not physical force is the common origin of acts between man and woman. Strong evidence and indications of great weight will alone support such a presumption."^[16] It is the teaching of applicable doctrines that favors the defense in rape prosecutions. In the final analysis, it is entitled to prevail, not necessarily because the unvarnished truth is on its side but merely because it can raise reasonable,

not fanciful, doubts. It has the right to require of the complainant "strong evidence and indications of greater weight."¹ In this particular case, counsel for the accused did concentrate on that point to reinforce their contention that the constitutional presumption of innocence had not been overcome.

It is undoubted that late in the evening of September 17, 1967, the act of sexual intercourse took place in an abandoned car in Bernardo Park in Quezon City. There was no denial on the part of appellant that such was the case, but he did stress that no force was employed, as none was necessary. He declared, on direct questioning by the trial court, that he "was courting her and that she became his girlfriend."^[17] They were sweethearts.^[18] Why they did it in such an unusual setting was ascribed to the fact that they were on their way to attend a performance of the Dell Shannon Show at the Araneta Coliseum, as was agreed upon in the morning of that day. It is a fact that they lived in adjoining places in Kamuning. They met at one of the corners of Kamuning road and proceeded on their way to the Coliseum. It started to rain, and they had to take refuge in the nearest place available. They stayed for more than four hours in that abandoned car. According to him, again in response to questions by the trial court, "something happened."^[19] To be more precise: "She surrendered her womanhood."^[20] He asserted further that afterwards, she did cry, worried about his leaving her.^[21] He assured the trial court that her fear was unfounded, as he was "disposed to marry her" and that he so informed his father, Major Godoy, who did give his consent.^[22]

This is not to say that the testimony of the defendant should be accorded full credence. His self-interest must have colored his version, even on the assumption that he could be trusted to stick to the literal truth. Nonetheless, there is much in his version that does not strain the limits of credulity. More to the point, there is enough to raise doubts that do appear to have some basis in reality. This is not to ignore what was declared by complainant on the stand. It is only to make clear that it must be carefully scrutinized. She denied that she willingly accompanied appellant, saying that she was grabbed not only by him but by a companion, Arturo Bispo by name, forced by both of them to ride in a taxi, and then taken to Bernardo Park where she was raped by appellant. That is not what she asserted in her affidavit before the Police Department of Quezon City. There were glaring contradictions. She was quite categorical then that appellant was alone and was without a companion. There was no mention whatsoever of Bispo. Also, she stated in her affidavit that it was around 10:00 o'clock in the evening of September 17 rather than 8:30 o'clock, as testified to by her, that appellant suddenly appeared and compelled her to take a ride with him. There is plausibility therefore to the claim of appellant that if it were true that it was later in the evening that they had their assignation, there was indeed an agreement previously to meet at such a place for the purpose of attending the Dell Shannon Show at the Araneta Coliseum. It is likewise credible that instead of having that ride in a taxi, they decided to walk, taking the main road in Kamuning; and when the rains came, they went to the nearest available place for shelter, which turned out to be an abandoned car in Bernardo Park. In the language of appellant's brief: "**** while inside the parked car all by themselves, they evidently forgot themselves, and gave in to their mutual passion or desire, consummating the sexual acts now the subject of the present criminal case against the herein defendant-appellant; ****."^[23] Allowances must be made for counsel's zeal. It could very well have happened thus, however. Under the circumstances, whatever hesitancy which must have been at first shown by complainant must have been overcome, and she at last yielded to appellant's amorous inclinations. The claim that force was employed is not borne out by a rigorous appraisal of the evidence of record. She mentioned a sharp instrument, but she could not be any more precise. There were signs of maltreatment on her arms, but, as will be subsequently discussed, the cause could be the beating from her aunt. The doubts persist. It is not an affront to reason to say there was no effective resistance to his importunings. It could have been a grudging consent, but nonetheless, a consent. Moreover, she must have found reassurance in his promise never to desert her. After all, both were in their teens, a time when it is much easier to give way to passion, to the urgency of the demands of the flesh.

3. Then there is the matter of the events that took place on the morning of September 18, 1967 when complainant went back to her aunt's house. There is no dispute that it was not until around 4:00 o'clock in the morning when they left Bernardo Park. Appellant, however, testified that he "took her to their gate." [24] What he meant was that he accompanied complainant to her house. Her version was different. He denied that he was with her on her way back. [25] When she reached her aunt's place, she knocked at the door, but the occupants were not yet awake. [26] She decided to go to a neighboring house; she failed to identify who lived there. [27] Her reason apparently was that the people living there were no longer asleep. [28] She knocked at the door, and she was allowed to enter; she stayed there until the morning. [29] It was only when it was bright daylight that she went back to her aunt's house. [30] She reported that she was raped. [31] Thereafter, she filed the complaint in the police headquarters, relating the incident to a Patrolman Marquez of the Detective Bureau. On this point, counsel for defendant, in casting doubt on her testimony, made mention of the failure to call on the stand both the neighbor, in whose house she claims she first went, and her aunt. Such a point cannot just be summarily brushed aside. Prior to the defense giving their side through the testimony of Patrolman Marquez himself as well as of the accused and his father, who asserted in court that he was willing to have his son marry complainant, there was no clear necessity for corroboration of her story as to what transpired that morning. In view of the contradictory versions however, appellant stoutly maintaining that he did accompany her to the gate of her aunt's house, it would have erased doubts and strengthened her side of the case if they supplied corroboration. It is in that sense that again counsel, having in mind the state of the law, emphasized in their submission as to there being a failure to overcome the constitutional presumption of innocence.

4. Then there is, too, the serious doubt raised in view of the testimony of impartial witnesses, the examining physician, Dr. Ernesto Brion and the member of the police force, Patrolman Jose Marquez, through whom the matter was investigated. As set forth in the brief for the appellant: "In its decision, dated September 16, 1969, the trial court held that the declaration of Cecilia Lagmay that the defendant-appellant hit her thighs and left arm with fist blows, is corroborated by the medical certificate, *** submitted by Dr. Ernesto Brion. Defendant-appellant respectfully takes exception to the aforesaid conclusions of the trial court. The uncontradicted evidence shows that the aunt of Cecilia Lagmay had been inflicting corporal punishment against the latter before Cecilia was medically examined by Dr. Brion and Dr. Cunanan, evidently because of Cecilia's reluctance to lodge a complaint against the herein defendant-appellant Reynaldo Godoy y Monteverde, which angered Cecilia's aunt. Patrolman Jose Marquez, investigating officer, Quezon City Police Department, testified, and this was never contradicted by the prosecution, that at the police headquarters on the morning of September 18, 1967, when Cecilia Lagmay was brought by her aunt thereto, the aforesaid aunt of Cecilia hit the latter with her umbrella, when Cecilia refused to give a declaration about what happened the night before at Bernardo Park between her and the defendant-appellant. If the aforementioned aunt of Cecilia Lagmay could even inflict corporal punishment upon her in the very presence of police authorities, she must have maltreated the complaining witness Cecilia Lagmay and inflicted those injuries appearing in the medical certificate, *** inside her own house when she came to discover in the early morning of September 18, 1967 that Cecilia Lagmay had gone out the night before with the herein defendant-appellant. And that is the reason why Cecilia Lagmay had several contusions on her left arm." [32] Counsel then invited the attention of this Court "to the fact that contrary to Cecilia's testimony that she was hit by the defendant with fist blows on her left arm and left thighs and that there were black marks (t.s.n., pp. 16-17), the medical certificate, *** merely mentions the existence of minor contusions on the left arm of Cecilia Lagmay when she was medically examined at the National Bureau of Investigation on September 18, 1967 after her investigation at the Quezon City Police Headquarters, which only goes to show that Cecilia Lagmay was again lying in her testimony so that the same should be discredited. No mention is made in said medical certificate that there were contusions on Cecilia's left thigh." [33] It is on the basis of such considerations that counsel would stress the failure of the prosecution to prove beyond reasonable doubt that force was employed by appellant in the

consummation of the sexual act. It cannot be denied that if the impartiality of the two above witnesses-be taken account of, what was testified to by them again did diminish the persuasive character of the evidence for complainant.

5. The tenor of this opinion is not to be misinterpreted. It does not signify acceptance of appellant's version. It only goes so far as to indicate that reasonable doubt had been created as to his guilt. Necessarily then, under the prevailing jural norm, he is entitled to acquittal. There was in his favor the constitutional presumption of innocence, which had not been sufficiently dented. Nor should his exculpation be considered in any wise as a reflection on the character of complainant. For what occurred, she is entitled to sympathy. That was her first experience. She lost her virginity, even under the rather permissive atmosphere of the day still a matter of concern. More likely than not, there was, to follow Cardozo, a surrender to the cardiac promptings of the moment. It is to be hoped that for her it is not too late to mend matters. Both appellant and his father are on record about the honesty of his intention and the sincerity of his avowals. Notwithstanding the disparity in their social standing, father and son made clear that marriage was the objective. In a way, the sad plight in which she now finds herself could be ascribed to the tenacity and persistence of her aunt that appellant be made to suffer for the act of sexual intercourse, irrespective of the circumstances under which it took place. Evidently, she is a lady rather rigid in her moral views, intolerant of any deviation. The offer made in good faith for the two young people to settle down as a married couple was rejected and spurned. As things turned out, such a decision was hardly in the best interest of her niece. There was not enough evidence to justify the successful conclusion of a prosecution for rape.

WHEREFORE, the decision of September 16, 1969 finding defendant-appellant Reynaldo Godoy y Monteverde guilty beyond reasonable doubt of the crime of rape is reversed and defendant is acquitted. This decision is immediately executory.

Barredo, Aquino and Martin, JJ., concur.

Munoz Palma, J., concurs in a separate opinion.

Antonio, J., did not take part.

Concepcion, Jr, J., is on leave.

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

[2] Brief for the Defendant-Appellant, 46-47.

[3] Ibid. 51.

[4] Attorneys Maximo A. Savellano, Jr. and Jovito A. Pascual. The former is now a judge of the Court of First Instance.

[5] Exhibit C.

[6] Among the recent cases in point may be cited. *People v. Fetalvero*, L-16234, April 26, 1961. 1 SCRA 1089; *People v. Tila-on*, L-12406. June 30, 1961, 2 SCRA 653; *People v. Curiano*, L-15256, Oct. 31, 1963. 9 SCRA 323; *People v. Contante*, L-14639, Dec. 28. 1964. 12 SCRA 653; *People v. Lumayag*, L-942, March 31, 1965, 13 SCRA 502; *People v. Maranan*, L-18211. April 30, 1965, 13 SCRA 642; *People v. Quintab*, L-21417, Jan. 31, 1966, 16 SCRA 146; *People v. Secapuri*, L-17518. Feb. 28, 1966, 16 SCRA 199; *People v. Serdena*, L-18032. April 30, 1966. 16 SCRA 829; *People v. Berdida*, L-20183. June 30. 1966, 17 SCRA 520; *People v. Vflalba*.

L-17243, Aug. 23, 1966, 17 SCRA 948; People v. Akiran, L-18760, Sept. 29, 1966, 18 SCRA 239; People v. Damaso, L-22553, Nov. 24, 1966, 18 SCRA 774; People v. Castro, L-20555. June 30, 1967, 20 SCRA 543.

[7] L-22357, October 31, 1967, 21 SCRA 729.

[8] Ibid. 736. Gumanhin is followed in People v. Panganiban, L-22476. Feb. 27, 1968, 22 SCRA 817; People v. Pelago, L-24884. Aug. 31, 1968. 24 SCRA 21; People v. Manos, L-27791, Dec. 24, 1970, 36 SCRA 457; People v. Beraces, L-25016, March 27, 1971, 38 SCRA 127; People v. Sabandal, L-31129, Sept. 30, 1971, 41 SCRA 179; People v. Dramayo, L- 21325, Oct. 29, 1971, 42 SCRA 59; People v. Angcap, L-28748. Feb. 29, 1972; 43 SCRA 437; People v. Carandang, L-31012. Aug. 15, 1973, 52 SCRA 259; People v. Cudalina, L-34969, April 29, 1975, 63 SCRA 499; People v. De la Victoria, L-30037, June 27, 1975, 64 SCRA 400; People v. Ogapay, L-28566. Aug. 21, 1975, 66 SCRA 209; People v. Payao., L- 29364, Nov. 21, 1975. 68 SCRA 70.

[9] L-32806, October 23, 1973. 53 SCRA 285.

[10] Ibid., 291. Cf. People v. Alto, L-18660, November 29, 1968, 26 SCRA 342 and People v. Pagkaliwagan. L-29948. November 26, 1970. 36 SCRA 113.

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

[12] Ibid. 64. Cf. People v. Zamora. L-34090. Nov. 26, 1973, 54 SCRA 47; People v. Alvarez, L-34644, Jan. 17, 1974, 55 SCRA 81; People v. Reyes, L-36874, Sept. 30, 1974. 60 SCRA 126; People v. Roa, L-35284, Jan. 17, 1975. 62 SCRA 51; People v. Joven, L-36022. May 22, 1975, 64 SCRA 126;- People v. Padirayon. L-39207. Sept. 25, 1975, 67 SCRA 135.

[13] L-36022, May 22, 1975, 64 SCRA 126.

[14] Ibid. 129. People v. De Castro. 84 Phil. 118 (1949) was cited in this connection.

[15] 8 Phil. 279.

[16] Ibid., 282.

[17] T.s.n., 191.

[18] Ibid.

[19] Ibid. 201.

[20] Ibid. 200.

[21] Ibid. 204.

[22] Ibid. 204-205.

[23] Brief for the Defendant-Appellant.

[24] Ibid. 207.

[25] Ibid. 25.

[26] Ibid.

[27] Ibid. 26.

[28] Ibid.

[29] Ibid. 27.

[30] Ibid. 29.

[31] Ibid. 30.

[32] Brief for the Defendant-Appellant, 39-40.

[33] Ibid. 40-41.

CONCURRING:

MUNOZ PALMA, J.,

I vote for the acquittal of the accused-appellant Reynaldo Godoy on the basis of the following circumstances which have produced in my mind a reasonable doubt as to his guilt of the crime of rape:

(1) Why did the offended party Cecilia Lagmay, upon her return home after the incident in question, not insist in gaining entrance to her aunt's house to report what happened to her, instead of seeking refuge in a neighbor's house and passing with strangers the night or rather the early hours of the morning of September 18? If it were true as the complainant claimed that she was raped, it is more probable and natural to expect that she would have pounded heavily on the door of her house to seek help and assistance of her aunt with whom she was staying at the time, especially since there was need for her physical condition to be seen right immediately after the assault on her virginity.

(2) Why did the prosecution fail to rebut the testimonial evidence of the defense that the physical injuries on the thighs and left arm of Cecilia Lagmay were inflicted by the latter's aunt when the girl showed reluctance to give a declaration during the investigation in the Quezon City Police Department in the morning of September 18, 1967? Cecilia's aunt did not appear during the trial to deny the testimony of Pat. Jose Marquez, that she hit Cecilia with her umbrella during that investigation.

(3) Why did the prosecution not refute the testimony of the accused-appellant that because he and Cecilia were sweethearts he was ready and willing to marry her and that his father was agreeable to the marriage which fact was conveyed to Cecilia during the investigation in the police department, but Cecilia was unable to give her consent because she was whipped by her aunt with an umbrella on that occasion?

All the above were important matters which needed to be rebutted by the prosecution, and the silence of the complainant and her aunt, Mrs. Minsero, on those points brought out by the defense lead me to doubt strongly the veracity of the complaint.

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