

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. SERAFIN CASTILLO AND MARCELO LUGOD, DEFENDANTS AND APPELLANTS.

*G.R. No. L-125. July 26, 1946*

Ponente: MORAN, C.J.

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### MORAN, C.J.:

This is an appeal from a judgment of the Court of First Instance of Nueva Ecija convicting the herein appellants of the crime of forcible abduction in accordance with article 342 of the Revised Penal Code and sentencing them, to an indeterminate penalty ranging from 8 years and 1 day of prision mayor as minimum, to 14 years, 8 months and 1 day of reclusion temporal as maximum, and costs.

Serafin Castillo was a persistent and ardent suitor of Carolina Isidro, both residents of the barrio of San Juan, Aliaga, Nueva Ecija. In the afternoon of March 27, 1945, Castillo and Marcelo Lugod, his co-appellant, forcibly dragged and carried Carolina Isidre from the store she was tending and took her to a waiting carretela while she resisted and cried for help. Appellants then ordered the rig driver to speed away in the direction of the town of Aliaga until they reached a point much farther than the municipal building where they stopped upon being warned by some guerrillas that it was dangerous to proceed further. Whereupon, the party half-turned and proceeded instead to the municipal building. Upon the arrival of the mayor and the chief of police at the building, the sworn statements of the girl and of Castillo were taken down. Subsequently, Carolina's mother, Juliana Santiago, with a sister of Carolina, both of whom arrived about two hours after Carolina, asked her whether she accepted Castillo. The girl vehemently answered in the negative, whereupon her mother took her home.

There is no controversy as to the fact that Carolina Isidro was taken away by Serafin Castillo and Marcelo lugod against her will. Counsel for appellants admits this and it is well supported by the evidence. Now, the question would be: were lewd designs sufficiently proven to constitute the case one of forcible abduction? The trial court's finding is fully supported ~by evidence. It is admitted that Serafin Castillo was a rejected suitor of Carolina Isidro with no hope of having her in marriage. His persistent offers of love and marriage had been decidedly spurned. It was in the evening of March 27 when he took the girl by force, and at that time the office of the justice of the peace is usually closed and no marriages are therein solemnized much less at a moment's notice without previously fulfilling the requisites provided by law. Castillo took the girl in a carretela to a distance much farther than the municipal building of Aliaga, and he proceeded with her to that building only by the warning of a grave danger ahead. In the carretela he forcibly embraced her, kissed her, and handled her against her will. No protestation of noble intentions can obviate the conclusion that all these acts proved lewd designs. Would a man intent on marriage so act? Appellant Castillo claims these acts were intended simply to add to the persuasive force of his matrimonial offer. This merits no consideration at all. It is a defense that can be put", up even by one who commits rape, that the girl will eventually yield to marriage.

With regard to the other appellant. Marcelo Lugod, it was he who forcibly dragged the girl from the store she was

tending to the carretela where Castillo was waiting to receive her. And throughout the ride, while Castillo handled the girl, lugod was seated to one side of her. He took, therefore, direct participation in the execution of the crime.

In view of the foregoing, the judgment appealed from is affirmed in all respects, with costs.

Feria, Bengzon, Briones, and Tuason, JJ., concur.

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