

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
TOMAS QUITAN, ET AL., DEFENDANTS. TEOFILO ANCHITA,
DEFENDANT AND APPELLANT.**

G.R. No. L-8227. May 25, 1956

Ponente: BENGZON, J.

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BENGZON, J.:

Detained in jail, Teofilo Anchita, 30, awaits the result of his appeal from the judgment of the Quezon court of first instance sentencing him to life imprisonment for having taken part in the forcible abduction and rape of Juanita Verdy, 16, in Sariaya, same province. We have reviewed the evidence, carefully noting the testimony of the witnesses, especially in view of the close analysis which counsel-de-oficio attempted, with commendable diligence. As we read it, in the evening of January 25, 1954 in Barrio Balubal, Sariaya, Juanita Verdy, her sister Virginia and the latter's husband Eduardo Sanico were roused from their slumber by some male visitors who turned out to be Tomas Quitain, Domingo Dichoso,, Teofilo Anchita, Eusebio Lorena, Gregorio Abuel, Antonio Laguartilla and Gregorio Briones. Admitted into the dwelling, the new comers were soon drinking wine with coca-cola in the company of Eduardo Sanido. After a while, Domingo Dichoso informed Virginia Verdy that he and his companions had come to take Juanita to her father, Gabriel Verdy, at the latter's request. Sensing danger, Virginia refused to let her sister go; wherefore, Domingo Dichoso threatened to bring Juanita with them by forcible means. Upon hearing this, Juanita ran down the stairs to the neighboring residence of Isabel Sanico. She was unluckily detected by Domingo Dichoso and Tomas Quitain who sprinted after her, grabbed her, and then dragged her to a nearby forest, (sitio Nacoco) followed by Teofilo Anchita, Gregorio Abuel and Gregorio Briones. There she was brutally ravished, first by Tomas Quitain and afterwards by Domingo Dichoso. Details are omitted, inasmuch as these two have pleaded guilty and are now serving a life sentence. It is however necessary to describe the role played by herein appellant. According to Juanita Verdy, when she was struggling against Tomas Quitain, with the latter on top of her, unable to consummate the sexual act, this appellant, (either to help his brother-in-law (Tomas) or to give vent to lewd desires), inserted his fingers in her private part and stretched it wide open, thereby enabling Tomas to accomplish total penetration.

After being twice abused, Juanita was conducted to the house of Tito Quitain. Again, the other subsequent events need not be recounted, inasmuch as by the pleas to guilt, the reality of the assault upon Juanita is now beyond dispute. It is enough to add that the next day Juanita submitted herself to physical examination at the Memorial Hospital in Lucena, Quezon; and that the physician found positive signs of recent defloration: spermatozoa and lacerated hymen, bleeding at the slightest touch.

On the same day she subscribed a complaint for kidnapping with rape, naming seven persons among them Tomas Quitain, Domingo Dichoso and herein appellant, who was described as the "son-in-law of Tito Quitain.[1] Before the justice of the peace she swore to an affidavit in Tagalog on the same day wherein she told her agonizing experience, omitting some details. At the trial, she recounted the same story, filling in the gaps which her previous sworn statement had not sufficiently covered. A searching cross-examination, far from shaking it, evinced all the

more her sincerity and truthfulness, revealing in measured indignation the heinous offense committed against her chastity.

"Not guilty" said Teofilo Anchita. "In fact I was not at or near the place: I was asleep at the time in the house of my father-in-law Tito Quitain". The latter swore to the same effect. Yet he proved to be unreliable, because he affirmed that Tomas Quitain was likewise there; whereas Tomas was admittedly elsewhere, criminally assaulting Juanita.

On the other hand, Virginia Verdy affirmed that Anchita had joined the group; and there is no reason to question the testimony of the two sisters—no animosity between them and this defendant having been shown.

Of course we noticed that Domingo Dichoso declared in open court, "Teofilo Anchita was not with us". However, being the leader of the gang, it was natural for Dichoso to whitewash his crime pals; his credibility can not be relied upon. It is true, he admitted to having been accompanied by all the other co-accused, except Anchita; but there was method in such admission: it was harmless, because he and Quitain had already pleaded guilty, Lorena and Laguartilla had been absolved, and Juanita had declared that Gregorio Briones and Gregorio Abuel had done nothing to her.

We have no doubt all in all, that Teofilo Anchita, took part in the sexual assault. At this juncture it may be stated, we were momentarily stumped by his point raised in the counsel's brief: it was physically impossible for Anchita to be stretching, with both hands, Juanita's organ while Tomas Quitain was on top of her striving for sexual contact, her legs being held by Dichoso and others. She said Quitain had raised himself a bit; but had not invited Anchita's help. The doubt however proved unimportant, because with two hands or one hand^[2] the accused inserted his fingers in the woman's organ, and widened it. Whether he acted out of lewdness or to help his brother-in-law consummate the act, is immaterial: it was both, maybe. Yet surely, by his conduct, this prisoner conspired and cooperated, and is guilty.

Nevertheless, his crime is not kidnapping with rape, but forcible abduction with rape. When the violent taking of a woman is motivated by lewd designs—as in this case— forcible abduction under article 342 of the Revised Penal Code is the offense. When it is not so motivated, such taking constitutes kidnapping under article 267 as amended.^[1]

One offense is against chastity, the other against personal liberty.

Now, the penalty of abduction is less than that of kidnapping. Maximum for the first is 20 years; for the second, death. Nevertheless, this gives appellant no reason to rejoice; the crime was forcible abduction with two rapes^[4] of which he is responsible as co-principal. Rape is penalized with reclusion temporal, like forcible abduction.^[5] Maximum penalty for the rapes should be imposed,^[6] not only because complicated with abduction^[6] but also on account of night time.

Wherefore, declaring the appellant to be guilty of forcible abduction with two rapes, he is sentenced to 20 years of reclusion temporal for each rape, total 40 years. He should be credited with his preventive imprisonment.^[7] No indemnity is ordered because the offended party reserved the right to file a separate complaint for damages. Costs against appellant. So ordered.

Paras, C. J., Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

[1] The others were Eusebio Lorena, Antonio Loguartailla, Gregorio Briones and Gregorio Abuel.

[2] It is unrealistic to expect that in the emergency, Jnanita could stop to distinguish between two hands and one hand.

[3] People vs. Crisostomo, 46 Phil., 775; People vs. Undiana, 50 Phil., 641.

[4] People vs. Villa, 46 Off. Gaz., 73.

[5]Article 335 Revised Penal Code.

[6]Article 48 Revised Penal Code.

[7]Article 29 Revised Penal Code.

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