

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LAURENCE “LARRY” CAJILLO AND ROMER “GARY” MORGADO, ACCUSED-APPELLANTS.

G.R. No. 108873. December 04, 1995

Ponente: MENDOZA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-108873/>

MENDOZA, J.:

This is an appeal from the decision dated January 11, 1993 of the Regional Trial Court of San Jose, Occidental Mindoro, 4th Judicial Region, Branch 46, finding the accused-appellants guilty beyond reasonable doubt of RAPE and sentencing them to suffer the penalty of reclusion perpetua and to indemnify the complainant in the sum of P50,000.00 jointly and solidarily without subsidiary imprisonment in case of insolvency.

The facts are as follows.

Andrea Itucas was single, at the time of the incident, 21 years old, and a resident of San Roque in the Municipality of San Jose in Occidental Mindoro. She was in business selling jewelry, perfume and peanut butter for which she was paid on installment.

The accused-appellants, Laurence Cajilo and Romer Morgado, are both married, also residents of San Roque. Cajilo was, like Andrea Itucas, 21 years old, while Morgado was 23.

All of these people knew each other very well not only because they came from the same barangay but because Cajilo was Andrea's classmate from Grade III to Grade IV at the San Roque Elementary School, while Morgado also studied in the same school, although he was ahead of them. Morgado was the driver of a tricycle.

On March 14, 1992, Andrea came home at about 8:00 o'clock in the evening, crying. She was accompanied by Francisco Silverio, caretaker of the Dalampasigan Hotel. She told her mother she had been raped by Cajilo and Morgado.

That same evening Andrea was taken to the St. Joseph's Hospital where she was examined by Dr. Rosendo Nueve. Dr. Nueve issued a medical certificate^[1] which reads:

FINDINGS:

Physical Examination:

No sign of external physical injury.

Internal Examination:

Hymen — Presence of fresh lacerations with bleeding at 3:00, 5:00 and 7:00 o'clock position.

Vagina - Admits one finger with resis-tant. [sic]

Last Normal Menstrual Period

- February 18, 1992

On May 19, 1992 an information for rape was filed against Laurence Cajilo and Romer Morgado, upon the sworn complaint of Andrea Itucas.

The prosecution version is as follows:

Andrea Itucas testified that at about 6:00 o'clock in the afternoon of March 14, 1992, while walking on her way home, a tricycle driven by accused-appellant Morgado stopped by. She saw accused-appellant Cajilo seated behind the driver. Cajilo called her and told her there was something he wanted to tell her but could not tell her there. He suggested they drive to the Aroma Beach, about two kilometers away, to avoid being seen by people. Andrea therefore boarded the tricycle and sat inside the sidecar.

Upon reaching the highway she asked Cajilo to tell her what it was he was going to say as nobody would recognize them there. At this juncture, according to Andrea, Cajilo transferred seat and sat beside her inside the sidecar of the tricycle. But Cajilo did not tell her what he wanted to say because that was not the right place where they could talk, he being a married man while she was single. They therefore proceeded to Barangay Bubog, but as Andrea complained that they had travelled very far, Morgado drove the tricycle back and, upon Cajilo's suggestion, proceeded to the Dalampasigan Hotel.

The three alighted from the tricycle and proceeded to a cottage. Accused-appellants Cajilo and Morgado and the complainant sat on a bench. After about five minutes, Morgado left to order beer. Cajilo then told Andrea what it was he wanted to tell her: that the latter's former boyfriend, Renato Pelingon, was still in love with her despite their misunderstanding and that Renato wanted Cajilo to tell Andrea this.

After a while, Morgado came back and told the two that food was ready. Andrea said she was surprised because she thought they would stay there only for a short while and she told Cajilo so. But Cajilo pleaded with her to stay, explaining that she was leaving for Manila the following day to go to Jordan. According to complainant, she agreed.

The three then proceeded to the main building of the Dalampasigan Hotel, with Cajilo and Morgado walking ahead of Andrea. Complainant said she noticed several empty tables and she asked where the food was, to which Morgado replied by pointing in the direction of a room named "Salambao." Complainant followed the accused-appellants as they passed through the main building of the hotel, out into the rooms at the back.

As they came out of the door of the main building, complainant said she saw Morgado receiving a key from a roomboy. She asked Morgado why he got the key because the owner of the hotel might not know about this. Morgado and Cajilo did not answer but just continued walking. According to complainant she again asked where the food was, but accused-appellants just pointed in the direction of the Salambao Room. She therefore followed the accused-appellants as they walked about a meter ahead of her.

However, she said, she saw the accused-appellants winked at each other, which made her nervous. She ran, but Cajilo grabbed her by the collar and twisted her left arm which caused her pain. Morgado twisted her other arm which also caused her pain. She was then dragged towards the door and pushed inside the room, so hard that her back hit the cement wall of the bathroom, causing her severe pains on the back.

According to Andrea, as soon as they were inside, Cajilo switched off the light in the bathroom. It was dark and she could only see a "kwadradong puti," which turned out to be a bed. She testified that one of the accused-appellants held her shoulder and when she tried to free herself, her hands were held by another one. Because she was resisting, Cajilo asked Morgado for help, telling him, "Pare, hindi ko ito kaya." The two pushed her down the bed, after which Morgado pinned down her left hand and her knees, using a pillow for a cushion. On

the other hand, she said, Cajilo held her right arm in one hand and, using his other hand, pulled her pants and panty down to her thighs. Cajilo then kicked them further down. Cajilo then spread her legs and succeeded in having sexual intercourse with her, while Morgado mashed her breasts.

Andrea claimed she shouted at the top of her voice and although it was dark, she was able to recognize Cajilo as the one who had sexual intercourse with her because she was able to "hold the man on top" of her "when Cajilo loosened his hold."

After about 30 minutes, she heard Morgado say "May tao" ("Somebody is at the door"). Morgado went out, while Cajilo placed his hand over her mouth and pressed his knee hard on her abdomen to prevent her from shouting. She heard a person outside asked what was going on inside the room, to which Morgado replied, it was nothing, just a lovers' quarrel. ("Pare, huwag kang makialam. Away lang ito ng magsiota.") Morgado then went back inside the room and Cajilo continued abusing her even as she shouted at the top of her voice.

After Cajilo was through, Morgado wanted to have intercourse with her, but complainant embraced his legs and begged him to have mercy on her. Morgado desisted from molesting her and told her to dress up. Complainant said that Cajilo grabbed and pulled her down on the floor and tried to strangle her. But Morgado stopped him telling him "Pare, wala na sa usapan iyan" ("Partner, that's not part of our agreement.")

Andrea said that Cajilo threatened to harm her if she reported the incident to anyone. They then stepped out of the room, with complainant following the two accused-appellants. They proceeded to the main building of the Dalampasigan Hotel, about 20 meters from the Salambao Room. Andrea sat on the bench about one and one-half meters away from the caretaker's table, while the accused-appellants were trying to settle their bill.

As Cajilo did not have money, he asked complainant for money, but the latter refused. For this reason the caretaker asked Morgado to leave his watch as guaranty for payment of the bills. (Francisco Silverio, the caretaker, testified that since Morgado did not want to leave his watch, he told accused-appellants to leave Andrea instead.) The accused-appellants then departed, but not after warning Andrea again not to tell anybody about what had happened. It was about 8:00 o'clock in the evening when they checked out of the hotel.

After accused-appellants had left, complainant told Silverio that she had been raped. Upon her request, Silverio took her home. They walked going to the complainant's house which was about two kilometers from the Dalampasigan Hotel.

Concordia Itucas, mother of Andrea, testified that on March 14, 1992, at about 8:00 o'clock in the evening, her daughter Andrea arrived crying. After learning what had happened to her daughter, Concordia Itucas took Andrea to St. Joseph Hospital. Andrea was examined by Dr. Rosendo L. Nueve at about 9:30 o'clock in the evening, and later issued a medical certificate.[2]

Accused-appellants Laurence Cajilo and Romer Morgado denied having raped Andrea. Their version of the incident is as follows:

On March 14, 1992, at about 4:00 o'clock in the afternoon, accused Cajilo was in front of Halcon Motor Parts at the public market of the municipality of San Jose, waiting for transportation to take him home to Barangay San Roque. He saw coaccused Morgado who was driving a tricycle and asked him if he could hitch a ride home. Morgado agreed.

After reaching home, as he was about to alight from the tricycle, Cajilo saw Andrea Itucas who was waving at him. Andrea approached him and asked if they could talk about something at the Aroma Beach. Cajilo agreed and so the two took the tricycle. (Enison Malicsi testified[3] that on March 14, 1992, at about 4:00 o'clock in the

afternoon, she was at the store of Fely Pelingon and saw Andrea Itucas hail the tricycle of Morgado. When the tricycle stopped, she saw Andrea board it. Cajilo was riding in the same vehicle.)

Morgado drove to the Aroma beach. Since there were people on the beach, Andrea told Morgado to proceed to the airport. Upon reaching the airport, Andrea still did not want to talk because there were workers at a nearby construction site.

Cajilo suggested the Dalampasigan Hotel. Andrea agreed and they went to that place. After reaching the hotel they went to a cottage, while Morgado stayed in the tricycle, about seven meters away. Andrea told Cajilo that she was hurt because Renato Pelingon had eloped with another woman. Cajilo tried to comfort Andrea and told her that anyway he was there to help her. Andrea smiled and pinched him. Cajilo made amorous advances at her and seeing Andrea receptive, even reciprocating by professing love for him, they started kissing and embracing. Andrea asked Cajilo to order beer for himself and Morgado, assuring him she had money and would pay for it. So Cajilo asked Morgado to order beer. (Francisco Silverio testified^[4] that when he served beer, he noticed Cajilo and Andrea seated close to each other with Cajilo whispering to Andrea.)

At about 7 o'clock in the evening, Cajilo told Andrea that they had better go home, but Andrea refused and when asked if she intended to sleep there, Andrea allegedly replied, "Hotel ito, di ba, hotel ito?" ("This is a hotel, isn't it?") When Cajilo said he had no money, Andrea said she would take care of the bill.

Cajilo therefore asked Morgado to get a room which the latter did. The two then went into the room, leaving Morgado in his tricycle. Silverio opened the room for them.

Cajilo described what they did inside the room. He said he and complainant embraced and kissed. He caressed Andrea in her private part. When Cajilo stood to urinate, Andrea asked him to turn off the light inside the bathroom after using it. The two then continued their love making. However as Cajilo touched Andrea's private part and inserted his middle finger in her vagina, he felt something wet and warm which gave a foul smell. He stood up and turned on the light and saw it was blood.

Cajilo got angry. He asked Andrea why she did not tell him she was menstruating. Andrea smiled and said she did not know it was her period. Cajilo then demanded that they go and as she refused to go home, he demanded to know: "Mag-aano pa tayo dito, maglalaba pa tayo ng regla mo?" ("What else shall we do here. Wash the bloodstains on the linen?") Andrea was hurt, and she cried.

Cajilo went out of the room and told Morgado what had happened. Shortly after, Andrea came out of the room. She was berated by Morgado who told her that since she had menstruation she should not have allowed Cajilo to use her.

Francisco Silverio came to find out what the noise was about. Morgado told him it was nothing but a lovers' quarrel that was going on.

Cajilo then asked Andrea for money, but Andrea refused to give him money. Morgado offered his watch as guaranty, but Silverio refused to accept it. Silverio insisted that Andrea be left instead. So the accused-appellants left Andrea behind but not before Morgado had shouted obscenities at her.

Thus were the conflicting versions of the prosecution and the defense. The trial court accorded credence to the prosecution's account and held accused-appellants guilty of the crime charged.

Both accused have appealed. They contend that the trial court erred:

- In holding that accused Laurence "Larry" Cajilo had carnal knowledge with the complainant (Andrea Itucas) by means of force and against the latter's will and consent, with accused Gary Morgado as co--conspirator;

- In its findings that both accused were guilty of the crime of rape beyond reasonable doubt; and
- As presiding Judge Emilio L. Leachon, Jr., of the court a quo, has already prejudged the case in favor of the prosecution even before the presentation of the evidence for the defense, such behavior being inconsistent with a fair and impartial trial prejudicial to the rights of the accused.[5]

That accused-appellant Laurence Cajilo was able to have sexual intercourse with complainant is shown by the evidence. Apart from her testimony, the medical certificate of Dr. Rosendo L. Nueve shows that complainant suffered lacerations in the hymen. While accused-appellant claims he merely inserted his finger in complainant's vagina, Dr. Nueve testified that the lacerations could possibly have been caused by forcible intercourse and that the vaginal bleeding of complainant was not caused by menstruation because the fact was that complainant was not menstruating at the time of the incident. Indeed, even the two chemists (Dimpa Bermejo and Carolyn Custodio) whom the defense presented said that while the bloodstains on the bed sheet were caused by human blood, they could not say whether it was due to menstruation. We are convinced that Cajilo had carnal knowledge of the complainant.

The question, however, is whether he had sexual intercourse with complainant against the latter's will. There are several circumstances which cast doubt on complainant's claim that she was raped or forced to have sexual intercourse.

First. Andrea Itucas voluntarily went with accused-appellants to the Aroma Beach on March 14, 1992. Because they found that there were many people there and they did not want to be seen, they drove to the airport and finding people there who were working in a construction, they went instead to the Dalampasigan Hotel. While Andrea claims that she went with Cajilo because she had been told there was something important which Cajilo wanted to tell her, the Court cannot understand why she nevertheless stayed with him when she knew Cajilo was looking for a place where they could have some privacy. She could not have merely been tricked by the accused-appellant by the promise of Cajilo to tell her something concerning her.

Second. There is also no question that Andrea willingly went to the Salambao Room of the hotel with Cajilo and Morgado. In fact, according to her, the two walked ahead and she merely followed them. Although she claims that she agreed to go to the room because Cajilo had allegedly begged her to have dinner with him and Morgado, as Cajilo was leaving for abroad the next day, she could not have missed the fact that she was being invited to have dinner inside a bedroom and not at the dining room. In going to the Salambao Room which was located at the back of the main building of the hotel, they passed several tables which were empty. According to her, she kept asking where the food was (obviously to stress that she was ignorant of the purpose for going inside the building) and, every time she asked, she was pointed to the Salambao Room. Andrea said she became suspicious only when she saw Morgado being given the key to the room by the hotel boy. In her affidavit she said: "Nagtungo kami sa loob ng establisementong yaon at nagtaka po ako kung bakit may inabot kay Gary na susi. . ."

Yet she continued following the accused-appellants through the crooked, narrow passage which was twenty meters from the main building. She only stopped when she noticed the accused-appellants winked at each other.[6] But Andrea is an intelligent woman.[7] She was of age at the time of the incident, being then 21 years old. This conduct of Andrea is inconsistent with her claim that she went inside the main building only because she was prevailed to have dinner with accused-appellants.

Third. Andrea said that when she tried to flee, she was grabbed by the collar by Cajilo and then forced inside the Salambao Room by accused-appellants. But Francisco Silverio, the hotel caretaker who testified for the prosecution and showed the three the Salambao Room, said he did not notice any untoward incident. On the contrary, he noticed that complainant went inside the room willingly. In fact Silverio testified that he had earlier

seen Andrea and Cajilo at the cottage, sitting close to each other and talking in whispers.

Fourth. The medical certificate issued by Dr. Nueve states that there were no signs of external physical injuries on the complainant. Yet, Andrea claimed that violence had been employed against her by the two accused-appellants. Cajilo allegedly twisted her left arm and she felt terrible pain;^[8] then Morgado likewise twisted her right arm and she also felt severe pain.^[9] She was allegedly dragged by both accused-appellants to the door of Salambao Room.^[10] As she resisted, Morgado allegedly pushed her hard inside the room as a result of which her back hit the cement wall of the bathroom and she felt severe pains on the back.^[11] One of the accused-appellants held her shoulders but when she tried to free herself, her hands were held.^[12] Morgado went behind her and held her shoulder. The two accused-appellants then pinned her down on the bed,^[13] with Morgado holding her left arm and Cajilo her right arm.^[14] Her feet were caught between the wooden edge of the bed and the cement wall.^[15] Then Cajilo forcibly parted her legs^[16] and forced her to a sexual intercourse, while Morgado mashed her breasts.^[17]

If Andrea was thus manhandled, it is a source of wonder why she did not sustain any external injuries on her body. There was nary a bruise or a scratch on her body despite the fact that the medical examination was conducted just an hour and a half after the alleged rape.^[18] The absence of any external or physical sign of the employment of force creates a reasonable doubt as to whether the accused was really forced to have sexual intercourse.^[19] While the fact that the medical certificate indicates no external signs of physical injury does not negate the commission of rape, yet where it is claimed that complainant was subjected to the kind of violence alleged by her, the medical examination should be able to determine such signs of injuries.

Fifth. In *People v. Ymana*^[20] it was held that, in rape by the use of force, a complainant who is neither overcome by fear nor threatened with a deadly weapon must show that she resisted the sexual assault. In this case, however, there is no showing that Andrea Itucas put up resistance to such assault against her. She said she was able to "hold the man on top of her" because Cajilo loosened his hold on her. But she did not say she fought back. She did not scratch him in the face, for example, when according to her, without Morgado, she could overpower Cajilo because the latter is smaller than she. Yet there were just the two of them in the room because Morgado answered the door when Silverio knocked to find out what the noise was about.

Andrea claimed she shouted at the top of her voice.^[21] But according to Silverio, all he heard was "Huwag" ("Don't") and the sound of something falling ("kalabog").^[22] It was not a cry for help that he heard, but for mercy. What is more puzzling is complainant's claim that she started shouting only 25 minutes after she had allegedly been dragged into the room,^[23] which indicates that in the beginning she was not in trouble. It could not be that her mouth was covered, because she claimed that the only time Cajilo placed his hand over her mouth was when Silverio came.^[24]

Even after Cajilo and Morgado had left the Salambao room, Andrea made no attempt to cry for help or raise an alarm so that the alleged rapists could be pursued and punished. As admitted by Andrea, she merely followed the two as they went out of the Salambao Room and walked to the caretaker's table, twenty meters away.^[25] A most natural reaction of Andrea would have been to make an outcry immediately after the alleged danger had passed^[26] if she had been outraged.

Andrea said she had been warned not to report the incident. This could explain why she did not shout for help, but the fact is that despite the alleged threat of harm, she told Silverio that she had been raped after the accused-appellants had left her in the hotel.

With respect to accused-appellant Romer Morgado, it appears that he did not join Andrea and Cajilo inside the room. In fact Andrea stated in her affidavit^[27] that only Cajilo forced her down on the bed, because Morgado

was guarding the door, thus belying his testimony[28] in court that Cajilo and Morgado helped each other in pushing her to the bed and pinning her down to enable Cajilo to have sexual intercourse with her. Indeed it would be improbable for Morgado to stay inside the room when his companion was abusing the complainant. If it was rape, it would be more probable for him to stay outside as a lookout.

Morgado acted in concert with Cajilo, but the evidence for the prosecution, while showing Andrea coming out of the room angry, is insufficient to show that she had been outraged or raped. The evidence for the defense may be weak but there is reasonable doubt as to the guilt of the accused-appellants because of improbabilities and serious contradictions in the evidence for the prosecution. The case for the prosecution must stand or fall on its merits. It cannot draw strength from the weakness of the evidence for the defense.[29] The strict standard of proof beyond reasonable doubt is not deemed satisfied simply because the accused submitted an implausible defense.[30] Necessarily then, accused-appellants are entitled to an acquittal.[31]

In their third assignment of error, accused-appellants charge the trial Judge, Hon. Emilio L. Leachon, of bias and hostility toward defense counsel, arising from the fact that when the judge was still a private citizen, defense counsel filed a civil case for collection of a sum of money against him. They cite the fact that their counsel filed four Motions for Inhibition against the judge which the latter denied. They also refer to the fact that the judge cited defense counsel in contempt and ordered him jailed, to instances in which the judge allegedly asked leading questions to the witnesses for the prosecution and to the denial by the judge of the defense motion for an ocular inspection of the hotel where the incident took place.

As the Solicitor General observes, however, it is not clear from these actuations of the trial court judge that he was favoring the prosecution. Accused-appellants merely suspect that the judge is biased against them because their counsel had once filed a case against the judge.

The mere fact that the defense counsel sued the trial judge before is insufficient basis for finding him prejudiced against counsel. It is noteworthy that counsel did not challenge in a petition for certiorari the orders of the judge denying counsel's motions.

What accused-appellants call the judge's bias against their counsel appears to be nothing but an effort on the part of the judge to expedite the trial of the case. Trials should be regarded as a joint endeavor of court and counsel to ascertain the true facts and the law as expeditiously as possible, and not as a game of technicalities where the judge is to be reduced to the passive role of an umpire charged with the exclusive task of awarding the prize.[32]

The decision of the trial court is therefore reversed not for the trial court's alleged bias against accused-appellants and their counsel but for its error.

WHEREFORE, the decision appealed from is REVERSED and the accused-appellants are ACQUITTED on the ground of reasonable doubt.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Puno, and Francisco, JJ., concur.

[1] Exhibit A.

[2] Exhibit A.

[3] TSN, pp. 4-6, Sept. 30, 1992.

[4] TSN, pp. 24-26, July 10, 1992.

[5] Appellant's Brief, p. 1; Rollo, p. 207.

[6] TSN, p. 33, Sept. 7, 1992.

[7] TSN, p. 24, Aug. 11, 1992.

[8] TSN, p. 35, Sept. 7, 1992.

[9] Id.

[10] TSN, p. 22, Aug. 10, 1992.

[11] TSN, pp. 34-35, Sept. 7, 1992.

[12] TSN, p. 26, Aug. 10, 1992.

[13] Id., pp. 27-28.

[14] TSN, p. 23, Sept. 8, 1992.

[15] Id., pp. 21-23.

[16] TSN, p. 28, Aug. 10, 1992.

[17] Id., p. 30.

[18] TSN, p. 10, July 9, 1992.

[19] 171 SCRA 174 (1989).

[20] Id.

[21] TSN, p. 26, Sep. 8, 1992.

[22] TSN, pp. 8-9, July 10, 1992.

[23] TSN, p. 27, Sept. 8, 1992.

[24] TSN, p. 32, Aug. 10, 1992.

[25] TSN, p. 35, Aug. 10, 1992.

[26] *People v. Estacio*, 105 SCRA 516 (1981).

[27] Original Records, p. 5.

[28] TSN, pp. 27-28, Aug. 10, 1992.

[29] *People v. Dulay*, 217 SCRA 145 (1993); *People v. Bacdad*, 196 SCRA 786 (1991); *People v. Permison*, 199 SCRA 635 (1991); *People v. Hora*, 153 SCRA 21 (1987).

[30] *People v. Villapaña*, 161 SCRA 72 (1988).

[31] *People v. Godoy*, 72 SCRA 69 (1976).

[32] *People v. Lacson*, 1 SCRA 449 (1961).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.