

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FLORENCIO DEL PRADO, DEFENDANT-APPELLANT.***G.R. No. 111708. February 20, 1996*

Ponente: ROMERO, J.

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A bicycle is generally regarded as a safe means of conveyance but to 17-year old Leonora L. Patillas, her brother's bike proved to be an instrument of disaster insofar as her virtue was concerned.

On the night of November 16, 1989, at around 7:30, Leonora went out on her brother Armando's bicycle for a fun ride at a nearby parking lot (which also served as a makeshift basketball court) at Dagat-Dagatan, Navotas, Metro Manila. On her way home, she rested for a while at Lapu-lapu Martiniko Street. Suddenly, she felt someone ride behind her. Looking back, she saw it was one of their neighbors, accused-appellant Florencio del Prado. The man poked a fan knife at her waist and told her to continue biking. Leonora fearfully pedalled away with del Prado standing behind her on "a protruding center belt at the rear of the bicycle,[1] holding on to her while jabbing the knife at her side.

Upon reaching Dagat-Dagatan Avenue at around 8:00 o'clock, del Prado dragged Leonora to a dark, cogon grass-covered vacant lot beside the Chinese Temple in Kalookan City. The nearest houses were about ten to twenty meters away. He ordered her to undress, which she refused even though her very life was in peril. This defiance prompted del Prado to hit her stomach and thighs, thus, immobilizing her. With Leonora weakened, Del Prado was able to remove her shirt, pull off her bra, kiss her neck, and push her to the grassy ground. Her efforts to fend him off proved inadequate, and he continued to kiss her and even managed to pull down her shorts and panty.

Thereafter, Del Prado himself stripped, then mounted the naked girl and inserted his manhood into her genitals, all the time threatening her not to resist. A soft whimper was all she could utter amidst this assault on her virtue. After three minutes, and his lust satisfied, del Prado stood up and reminded Leonora to keep the incident to herself; otherwise, he might be forced to kill her and the members of her family. When del Prado had left, Leonora stayed immobilized in the same spot for about twenty minutes due to body pains. Consumed by a feeling of general weakness, she had no strength to ride and had to tow the bicycle home.

In December of that year, Leonora confided to her visiting sister Maritess about the incident of November 16. Maritess was already married and no longer living with them at the time. It was only on March 12, 1990, however, that their mother Beatriz, who was asthmatic and had a heart ailment, learned of her younger daughter's fate. Beatriz immediately reported the matter to the Kalookan Police and brought Leonora to the National Bureau of Investigation for examination.

After examining Leonora on March 13, 1990, NBI Medico-Legal Officer Alberto Reyes found that she had healed hymenal lacerations in her genitals. He also said that it was possible for her to have been raped in November 1989.

Thus, Del Prado was charged with rape in a complaint dated July 25, 1990. When arraigned on August 6, 1991, he entered a plea of not guilty. He denied all the accusations against him and claimed that Leonora was his sweetheart whom he met sometime in September 1989 at a public plaza affair. He claimed that he courted her and made her his girlfriend that very day.

On the date and time in question, he was watching television at home when invited by Leonora for a bicycle ride. Riding in tandem, del Prado drove the bicycle towards a tricycle parking lot where they spent some time. When they returned home at around 8:00 o'clock p.m., Beatriz was already waiting for them. Apparently angered by her daughter's leaving without her permission, Beatriz slapped and pulled Leonora inside their house.

The following day, November 17, 1989, Leonora again went to the del Prado residence, a mere three houses away, to set a date for a movie. At 1:00 o'clock in the afternoon of November 19, they met at Letre, then proceeded to the Gotesco Theater where they watched a local film entitled, "Masikip ang Langit sa Lupa." After the movie, they proceeded to the Abonce Hotel in Doroteo Jose where they checked in to satisfy their sexual desires. For a "short time" of two hours, he paid P20.00 to the hotelkeeper.

He continued his narration to say that Leonora spent New Year's Eve with their family and, together, they went to a neighbor's house where they stayed until 2:00 o'clock in the morning of the first day of 1990. Although they had informally broken up by December 1989, Leonora would still drop by their house and, on February 19, 1990, greeted him on his birthday. That was their last meeting.

He added that the case against him was filed upon the instance of Leonora's brother-in-law, Renato. On a lot owned by Beatriz, Renato had built a house which he wanted to sell but this was objected to by his mother-in-law. Renato asked Beatriz to reimburse his expenses in the amount of P30,000.00 which, unfortunately, she did not have. The complaint for rape was contrived for the sole purpose of extorting money from the del Prados, so that Renato may be paid and thus put an end to their family squabble.

Del Prado presented several witnesses - his mother, some family friends, and an itinerant fish vendor to corroborate his tale about seeing a movie with Leonora on November 19, 1989 and being together at a neighbor's house on New Year's eve. Several of the said witnesses also testified that Leonora was often seen at the del Prado residence. In other words, he sought to bolster his claim that Leonora was his sweetheart whom he, therefore, did not have to coerce into sexual submission.

In rebuttal, Beatriz testified that del Prado's mother Pacencia sought the dropping of the complaint sometime in April 1990 by offering marriage^[2] and money, both of which were refused by her and Leonora.

On March 9, 1993, Judge Rene Victoriano of the Regional Trial Court of Kalookan City, Branch 124, rendered judgment, the dispositive portion of which reads:

"WHEREFORE, in view of all the foregoing, this Court finds the accused Florencio del Prado guilty beyond reasonable doubt of rape as charged which is penalized under Art. 335 of the Revised Penal Code and hereby sentences said accused to suffer the penalty of Reclusion Perpetua, there being no aggravating or mitigating circumstances; to pay the victim the sum of P50,000.00 as moral and exemplary damages(;) and to pay the costs of this suit.

The accused shall be credited in the service of his sentence with the period of time he has undergone preventive imprisonment pursuant to Art. 29 of the Revised Penal Code(,) provided the conditions thereon (sic) listed have been complied with.

SO ORDERED."

In the instant petition, del Prado assigns two errors allegedly committed by the court a quo, namely, in ignoring

his defense that he and Leonora were lovers, and in giving full credence to her testimony.

Del Prado relied on the testimonies of several witnesses to prove that Leonora was his girlfriend.

Aside from his mother, del Prado presented tricycle driver Jose Castillo, Jr. and movie checker Paquito Villa to support his story about seeing a movie with Leonora on November 19, 1989. Castillo supposedly saw del Prado and Leonora meet at Letre before boarding a jeepney together. Villa, on the other hand, was Regent Films' checker for the adult movie "Masikip ang Langit sa Lupa." [3] Del Prado introduced his girlfriend Leonora to him before asking to be allowed to see the movie for free.

It must be noted that Castillo is a neighbor, family friend and drinking comrade of the del Prados, while Villa has known del Prado's father for five years, the latter being the shipper of the film negatives of Regent Films. Hardly can their corroborative statements be accepted as gospel truth.

Three more witnesses, including Pacencia, Ruben Simpao and Luz Aposaga, swore they often saw Leonora and del Prado together between November 1989 and February 1990, alternately at the latter's house and at the tricycle parking lot. Simpao is a long-time neighbor of the del Prados while Aposaga is an itinerant fish vendor of whom Pacencia is a frequent customer.

We agree with the conclusion of the court a quo that these testimonies "are biased and hardly credible." [4] Not only do they conveniently fit into the entire narration of del Prado, but the motives of those who uttered them, connected one way or the other to the accused, and presumably, not completely impartial, are highly suspect.

Leonora, on the other hand, vehemently denies that she was ever the girlfriend of del Prado. If ever she was seen at the latter's house, it was because del Prado's sister was her friend. [5]

Accused-appellant points out some inconsistencies in the testimony of Leonora which, he contends, should have swayed the trial court to doubt her credibility. She allegedly was not sure if she removed her shirt upon his orders or if it was del Prado himself who did it. Yet, Leonora confirmed twice during cross-examination her original narration of facts that Del Prado removed her shirt after hitting her stomach and thighs. [6] Some material details were also allegedly admitted by Leonora during cross-examination which she omitted earlier, such as, that she was dragged to the vacant lot beside the Chinese Temple and that he removed her bra. Leonora's response to this allegation rings true: she made no mention of these facts because neither the public nor the private prosecutor asked questions which would have called for such a response. [7] In any case, these "inconsistencies," if they may be deemed as such, are so insignificant as to adversely affect the veracity of the rest of Leonora's testimony.

Admittedly, Leonora and del Prado had sexual congress in November 1989. While Leonora claims she was forced into it on November 16, del Prado maintains that she voluntarily participated in the act on the 19th after watching an adult movie.

The trial court found Leonora's version more plausible. Being in a better position to observe all the witnesses as they testified on the witness stand, its appreciation of their truthfulness, honesty and candor, as well as of the other evidence presented, deserves the highest respect unless this Court finds any gross error in its findings which would result in an injustice to any of the parties. We find none.

All the evidence needed by the court a quo was supplied by the victim herself. This was a 19-year old woman [8] unwaveringly, sometimes tearfully, telling the court that her neighbor sneaked up behind her while she was resting on her bicycle, pointed a knife at her and threatened to use it if she did not do as he instructed. She was dragged into a secluded place, a dark "talahiban," then ordered to remove her clothing. When she refused, the culprit did it himself but not before hurting her into submission. She may have forgotten some minor details,

through no fault of hers, and committed inconsistencies in others, which she eventually corrected, but she clearly remembered the intimidation, the threats and the pain.

How did the accused-appellant respond to these charges? He admitted having sexual intercourse with Leonora but it was voluntary, he avers, because she was his girlfriend. He insisted being a victim of circumstance; Leonora's family needed money and they spun a tale of rape in order to get it from him, an innocent third party.

If anybody may be accused of concocting a tall tale in this case, it is accused-appellant himself. He would like to paint a picture of a 17-year old harlot who accepted the love of a man on the very day they met, who frequently visited him at their home, who asked for a date in the movies, and who spent New Year's Eve with her boyfriend instead of staying at home with her family. He insisted that this is a girl who became a woman before her time; who, at that tender age willingly gave up her virginity to a man she had known for only two months, and when asked by her alleged lover to marry him declined his proposal. On top of all these, she screamed "rape", not to salvage her lost honor but to further besmirch it by using her one-time sexual encounter as a leverage in extorting a measly amount of money from her erstwhile boyfriend. What kind of a woman is thus portrayed? A man who can concoct such a fantastic story to save his skin is no man at all but a beast who deserves to spend the rest of his productive years in a cage for the security and peace of mind of other Leonoras who innocently ride their bicycles on public roads.

The proper imposable penalty in this case is reclusion perpetua to death, since the rape was committed with the use of a knife, a deadly weapon. The death penalty, still suspended under mandate of the 1987 Constitution, may not be imposed at all.

ACCORDINGLY, the decision appealed from is hereby AFFIRMED.

SO ORDERED.

Regalado (Chairman), Puno, and Mendoza, JJ., concur.

[1] TSN., November 18, 1991, p. 5. This literal translation is a mere description of what is technically known as a bicycle "step nut."

[2] Del Prado himself admitted on cross-examination that before they broke up in December 1989, he asked Leonora to marry him. (T.S.N., October 6, 1992, p. 13.).

[3] Actually, the title of the movie is "Anghel sa Lupa;" T.S.N., April 14, 1992, p. 3.

[4] Decision, Rollo, p. 26.

[5] T.S.N., November 5, 1991, pp. 26-27.

[6] Ibid., p. 18; November 18, 1991, p. 10.

[7] T.S.N., November 18, 1991, pp. 9 and 11.

[8] At the time she testified in November 1991, Leonora was already nineteen years old.

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