

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO DE LARA, CARLITO VILLAS, EDUARDO VILLAS, AND MAGNO TAMARES, ACCUSED, ROLANDO DE LARA, CARLITO VILLAS, AND MAGNO TAMARE...

G.R. No. 124703. June 27, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision[1] of the Regional Trial Court, Branch 44, Occidental Mindoro, finding accused-appellants Magno Tamares, Carlito Villas, and Eduardo Villas guilty of forcible abduction and sentencing them to suffer a prison term ranging from 10 years and 1 day of prison mayor, as minimum, to 20 years of reclusion temporal, as maximum, while finding accused-appellant Rolando de Lara guilty of forcible abduction with rape and sentencing him to suffer the penalty of reclusion perpetua, as well as ordering accused-appellants jointly and severally to indemnify the victim Rosabella de Lemos in the sum of P50,000.00 and to pay the costs of the suit.

The information against accused-appellants charged:[2]

That on or about the 13th day of May, 1993 at around 8:00 o'clock in the evening, in Sitio Buli, Barangay Cabra, Municipality of Lubang, Province of Occidental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the accused, with lewd designs and conspiring, confederating together and helping one another, did then and there willfully, unlawfully and feloniously abduct Rosabella de Lemos against her will and pursuant to the aforesaid conspiracy, the accused did then and there willfully, unlawfully and feloniously, by means of force and intimidation committed with the use of a weapon, have carnal knowledge of the said Rosabella de Lemos, a woman, against her will.

CONTRARY TO LAW.

Accused-appellants pleaded not guilty, whereupon trial ensued.

The prosecution presented as its witnesses private complainant Rosabella de Lemos and the following: Kagawad Araceli Tarcena, Dr. Teresa Abeleda Pagilagan, Reynaldo Tarcena, Gloria de Lemos, Pat. Isagani Yuson, SPO3 Celestino Yap and PO1 Ronaldo Ibis. From their testimonies, the following appear:

On May 13, 1993, at around 8 p.m. in Sitio Buli, Barangay Cabra, Lubang, Occidental Mindoro, while Rosabella and her mother Gloria de Lemos were on their way to attend a procession (locally known as the "libutan"), they were stopped by Rosabella's uncle, Magno Tamares. Sensing that Magno and his companions were up to something bad, Gloria asked, "Ano ang kailangan ninyo sa anak ko?" Magno did not answer. Instead, he held both hands of Rosabella and poked a gun at her. Then, he fired the gun twice in the air. On the other hand, Eduardo "Eming" Villas held the victim's left arm, while Rolando de Lara held her right arm. Rosabella said she was able to identify her abductors because the latter's flashlights were on.[3] She knew Rolando because she and Rolando

had been "special friends" (sweethearts) for a year when the latter was still working in Saudi Arabia. They had since broken off, however, as shown in Rolando's letter to Rosabella, dated December 16, 1992, in which he complained that Rosabella had not answered his letters and asked her to tell him if she was angry, adding, "dahil di ko naman hawak ang puso mo para piliting mahalín ako." (Exh. E) According to Rosabella, when Rolando arrived from Saudi Arabia, he went to her house twice trying to reconcile with her, but she refused his offer. Rosabella testified that she broke off with him because he had many vices and was maintaining relations with another woman.[4]

Gloria de Lemos testified that accused-appellants forcibly carried Rosabella to the forest. Rosabella was crying for help to her mother ("Ina, tulungan mo po ako."), but there was nothing Gloria could do because Carlito Villas held her at bay with a knife and pushed her to the ground, as a result of which she lost consciousness. When Gloria came to, Rosabella and accused-appellants were gone. She went home to Buli and told her husband what happened. They then went to Kagawad Araceli Tarcena who advised them to see Mayor Raul Virola for assistance.[5]

Rosabella testified that she was raped by Rolando de Lara as Eming and Carlito Villas watched. She was threatened with death if she did not submit to his will. She said that Rolando de Lara pushed her to the ground and trapped her between his legs as he poked a knife (beinte nueve) at her with his right hand. Then he started unbuttoning her blouse with his left hand and proceeded to undress her by lowering her pants and panties. He threw away the victim's menstrual napkin which she had because she was menstruating at that time. Afterward, accused-appellant removed his pants and went on top of her. She felt pain when Rolando de Lara inserted his finger and later his penis into her vagina. When he was through, he stood up and helped her put on her clothes.

Rosabella was brought by Rolando de Lara, Carlito and Eming Villas to the house of Reynaldo Tarcena in Barangay Libis, Cabra, about two (2) kilometers from the place where she was raped.[6] They stayed there between 3 a.m. and 4 a.m. on May 14, 1993, for about five (5) minutes. Rolando de Lara wanted Reynaldo Tarcena to take them to Kagawad Araceli Tarcena because they had with them Rosabella. Reynaldo Tarcena said that Rosabella was crying and refused to talk and her hair was disheveled.

Considering that the three (3) accused were related to him and that he thought he had no authority to hold them, Reynaldo Tarcena fetched Kagawad Tarcena from her house, about 500 meters away.[7]

Prior to that, Kagawad Tarcena had been informed by Peter de Lemos that Rosabella had been kidnapped. Gloria de Lemos had likewise asked for her help in finding her daughter.[8] When Kagawad Tarcena brought Rosabella and the three accused-appellants to her house, she noticed that Rosabella was crying. She asked if she had eloped with Rolando de Lara, but she did not answer. Instead, it was Rolando de Lara who answered and said, "Tia Celi, hindi niya alam na siya ay kukunin." This made her say, "Patay ka!"[9] Kagawad Tarcena noticed contusions and bruises in Rosabella's arms and legs as well as blood stains on her pants.[10]

In the morning of May 14, 1993, Magno Tamares arrived in Kagawad Tarcena's house bringing with him a pair of shorts and panties for Rosabella as he observed that "Lapot na lapot na ang batang iyan" ("She is very dirty.") Rosabella stayed in Kagawad Tarcena's house from 3 a.m. until about 10 a.m.[11] All the time, the Kagawad was with them.

On May 14, 1993, Rolando de Lara bought her toothpaste and a toothbrush as well as sanitary napkins. She took a bath and used the pair of shorts and panties which Magno Tamares brought for her. In Kagawad Tarcena's house, Magno Tamares threatened to kill Rosabella and her family if she did not marry Rolando de Lara. When Rosabella's parents arrived that morning with some policemen and Rosabella was asked by Pat. Isagani Yuson if she was willing to marry Rolando de Lara, she responded "yes". But Rosabella said she did so only because

Magno Tamares was threatening her, and he was then present when she was asked the question by Pat. Yuson.[12]

Rosabella was taken by her mother and the policemen and brought home in Sto. Buli. The following day, May 15, 1993, she asked her brother to fetch a police officer so that she could file a complaint. The next day, May 16, 1993, PO1 Ronald Ibis and SPO3 Celestino Yap came. Rosabella was taken to her employer, Mrs. Violeta Abeleda. Earlier that day, Rolando de Lara, Magno Tamares and the former's relatives went to the De Lemos' residence asking Rosabella anew to marry Rolando de Lara. Magno Tamares repeated his threat to kill Rosabella and her family if she would not marry Rolando.[13] So when Pat. Ibis arrived, Rosabella became hysterical. She told him that she would say something as soon as they reached town. On the other hand, Magno Tamares asked if there was a way they could settle the matter. Both policemen accompanied Rosabella and her immediate family to Lubang.[14]

On May 17, 1993, Dr. Teresa Pagilagan, rural health physician of Lubang, Occidental Mindoro, examined Rosabella. She afterward issued a medical certificate (Exh. B) that Rosabella had injuries which could have been sustained a week or so prior to the examination, consisting of contusion hematoma on the antero medial part of her left forearm, which was probably caused by a strong grab of the hand, contusion hematoma in her left knee and abrasion on the antero medial part of her left leg. The examination of Rosabella's private parts disclosed that she had positive minimal bleeding because she had menstruation and a hymenal laceration which could have been caused by the penetration of a male organ for a week or so prior thereto.[15]

The prosecution presented receipts to prove expenses incurred by Rosabella relative to the prosecution of this case which amounted to P28,047.05.[16]

The defense then presented its evidence.

Rolando de Lara claimed that Rosabella had been his girlfriend since April 1990. When he arrived from Saudi Arabia on April 23, 1993, he attended the Mayflower Festival and danced with Rosabella that night. Prior to the incident, he talked with Rosabella five (5) times and on one of those occasions, on May 11, 1993, they agreed to elope, because Rosabella's siblings were against their marriage. Rolando claimed that they planned to elope on May 12, 1993 but Rosabella was not allowed to leave the house. The following morning, May 13, 1994, they agreed to elope in the evening of that day. Thus, on May 13, 1994, at about 8 p.m., while Rosabella was walking ahead of her mother and siblings on their way to join the procession, he met her, and they quickly ran away from Rosabella's companions.[17] On their way to Sto. Libis, they saw Carlito and Eduardo Villas who, earlier that night, met each other to join the procession.[18] They asked the two to accompany them to Magno Tamares' house to seek his advice.[19]

When the four saw Magno Tamares, they were advised to look for Kagawad Tarcena as she was the person in authority.[20] As Kagawad Tarcena was not yet home, the four proceeded to Reynaldo Tarcena's house instead. Carlito and Eduardo Villas stayed outside, while Rolando de Lara and Rosabella were ushered in to the house by Reynaldo Tarcena and later told to rest in the bedroom. Rolando de Lara said that once inside the room, Rosabella began to take off her clothes. He went on top of her, while Rosabella held his penis and guided it into her vagina. Their lovemaking lasted for about 15 minutes, after which they rested, embraced and kissed each other.

When Kagawad Araceli Tarcena arrived in Reynaldo Tarcena's house, Rolando and Rosabella told her that they had eloped. She invited them to her house where they stayed until the next morning. Carlito and Eduardo Villas then went home.[21]

The next day, May 14, 1993, Magno Tamares went to Kagawad Tarcena's house and brought with him a pair of

shorts and panties sent by Rolando de Lara's cousin, Gemma Rivera. Thereafter, Rosabella's parents and three (3) policemen, led by Pat. Yuson, arrived. Pat. Yuson first talked with Rosabella alone, and then with her parents. Afterwards, Pat. Yuson told Rolando that Rosabella's parents wanted him to start serving them at home as it was the custom in the province. Whereupon, the group proceeded to the house of Rosabella in Buli together with Rolando de Lara's relatives to help him perform the customary "paninilbihan" in anticipation of their marriage.[22]

On May 16, 1994, Rosabella's two brothers together with two policemen took her to Lubang. Rolando followed them to Lubang, but he did not see her anymore; instead, he learned of a criminal complaint filed against him after a week.[23]

On the basis of this evidence, the trial court rendered its decision on April 17, 1995, the dispositive portion of which reads:[24]

WHEREFORE, judgment is hereby rendered:

1. Finding the accused MAGNO TAMARES, CARLITO VILLAS and EDUARDO (Eming) VILLAS, GUILTY of the crime of Forcible Abduction all as principals, with the aggravating circumstance of nocturnity, and are hereby meted a penalty of imprisonment of TEN (10) YEARS and ONE (1) DAY of Prison Mayor, as minimum to TWENTY (20) YEARS of Reclusion Temporal as maximum;
2. Finding the accused ROLANDO DE LARA, GUILTY beyond reasonable doubt of the complex crime of Forcible Abduction with Rape, and is hereby meted a penalty of Reclusion Perpetua with accessories of the law; and
3. Ordering all the accused, jointly and severally to indemnify Rosabella de Lemos the sum of FIFTY THOUSAND (P50,000.00) PESOS, and to pay the costs.

IT IS SO ORDERED.

Hence, this appeal. Eduardo Villas subsequently asked for and was granted leave to withdraw his appeal.[25]

Accused-appellants contend:

THE COURT A QUO FAILED TO GIVE DUE WEIGHT AND CONSIDERATION TO THE EVIDENCE ADDUCED BY THE DEFENSE, MUCH LESS, CONSIDERING THE COLLECTIVE IMPORT OF THE FACTUAL CIRCUMSTANCES WHICH SHOW THE IMPROBABILITY OF THE OFFENSE CHARGED.

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED-APPELLANTS DESPITE LACK OF LEWD DESIGN AS SHOWN BY THE COMPLETE ABSENCE OF CONSPIRACY BETWEEN THE FOUR ACCUSED-APPELLANTS.

I.

We find these contentions without merit.

The evidence clearly shows that Rosabella was forcibly taken by accused-appellants while on her way to join a procession. She was carried to the forest against her will and there sexually abused by Rolando de Lara. She was later taken by accused-appellants to the house of Kagawad Araceli Tarcena, some two (2) kilometers away from where she was taken by her parents and some policemen the following morning, May 14, 1993.

Rolando de Lara claims that he and Rosabella were sweethearts and that they were eloping on May 13, 1993 when they were found in the house of Kagawad Araceli Tarcena. Several circumstances negate this claim.

First. The two had already broken off their relationship at the time of the incident. Rolando's letter to Rosabella

discloses that whatever relationship or feelings they shared before had already ceased, at least as far as Rosabella was concerned.

As the trial court found:[26]

Regarding Rolando's claim of elopement, the evidence showed that as of May 13, 1993, he and Rosabella are no longer sweethearts because as early as 1992, they had broken off their relationship. His letter to Rosabella dated 12-16-92 and marked as Exhibit "E" which was identified by Rosabella is clear enough to show that the relationship between them had ceased to be sweet. Besides, the oral testimony of Rosabella to that effect had not been successfully rebutted by the accused. Even granting for the sake of argument that they eloped because they love each other, and the reason for their elopement is the objection of Rosabella's relatives, why is it that after the incident, when the parents of Rosabella allegedly agreed to the proposition that Rolando and Rosabella will be married, Rosabella refused to marry the accused and, instead, opted to file charges against him thereby subjecting herself and her entire family to public ridicule and the difficult consequences of such action? The ensemble conclusion that can be drawn from such action is the fact that at the time of the alleged incident, the accused Rolando and the complainant Rosabella are no longer sweethearts.

Indeed, as his letter reveals, since Rolando de Lara arrived from Saudi Arabia, he had been trying very hard to reconcile with Rosabella. As his feelings had not been reciprocated, he resorted to a more extreme measure with the help of the other accused-appellants by taking Rosabella against her will. After taking her, Rolando raped her. Even if Rosabella and Rolando were sweethearts, this did not give the latter such license to take liberties with her. As this Court held, "[a] sweetheart cannot be forced to have sex against her will. Definitely, a man cannot demand sexual gratification from a fiancée and, worst, employ violence upon her on the pretext of love. Love is not a license for lust." [27]

Second. Rolando de Lara claims that he and Rosabella had sexual intercourse in the house of Reynaldo Tarcena in a room given to them. But as the trial court correctly observed:[28]

There is no dispute that there was actually a sexual intercourse that took place between the accused and the complainant. That fact is admitted by the parties and confirmed by the testimony of Dr. Teresa Abeleda Pagilagan who conducted an examination of the complainant shortly after the incident. A medico legal certificate was prepared and submitted in evidence. The only question is, while the prosecution claimed that it was done by force and intimidation in a forested area, the accused claimed that it was accomplished in a room at the house of Reynaldo Tarcena upon the mutual and voluntary desire of Rolando and Rosabella.

Based upon the testimonies of Reynaldo Tarcena and Araceli Tarcena, the circumstances of time and place would not allow the possibility of Rolando and Rosabella having sexual intercourse at said house. The evidence showed that Reynaldo Tarcena's house is a one (1) room house and the time that the two - Rolando and Rosabella - stayed there was too short for them to be able to perform the acts so vividly pictured by Rolando in his testimony. Moreover, the undisputed fact is that, during the time that Rolando and Rosabella were in Rody Tarcena's house, up to the time that they left the same after the arrival of Araceli, Rody's wife and children (two (2) adolescent daughters) were all awake, the claim that under such circumstances, Rolando and Rosabella could have engaged in a sexual intercourse, is simply unbelievable.

Moreover, when Reynaldo Tarcena was presented again as rebuttal witness, he testified that when accused-appellants together with Rosabella arrived in his house, he just let Rolando de Lara and Rosabella sit on the cemented floor while he went to Kagawad Tarcena. He denied Rolando's claim that it was in his house where the couple had sexual intercourse because, as he explained, his house is a one (1) room affair, with only a blanket separating the area where some of his children sleep.[29]

Indeed, as Rosabella said, they stayed in Reynaldo's house for only five (5) minutes, a very short period for a man

and woman to engage in sexual intercourse. Further, it was unlikely for a couple who eloped to engage in such activity in utter carelessness and apparent disregard of the fact that Reynaldo Tarcena's wife and children were awake when they arrived.

Third. Rolando de Lara did not dispute that Rosabella had menstruation at the time when they allegedly engaged in consensual sexual intercourse. Considering the inherent modesty and reticence of a typical Filipina, it is doubtful if she really agreed to engage in sexual intercourse while she had her menstrual cycle especially so considering that this was her first time to do this. That Rosabella was menstruating at that time was well established by the evidence of the prosecution, to wit:

Testimony of Rosabella de Lemos[30]

Q - And, what did Rolando de Lara do after you resisted the unbuttoning of your blouse, if any?

A - He unbuttoned my pants and lowered it with my panty and napkin, sir.

PROSECUTOR JARAVATA:

Q - Why do you have a napkin at that time?

A - I had a menstruation at that time, sir.

Q - And, after Rolando de Lara lowered your pants and panty and removed the napkin, where was the napkin placed?

A - He threw it, sir.

....

Q - Did you not request Rolando de Lara to buy your toothpaste?

A - He bought toothpaste and toothbrush, sir.

Q - Did he purchase these items upon your request?

A - I did not say, sir.

Q - Were these the only items delivered to you by Rolando de Lara?

A - Also napkin, sir.

Q - Are you referring to a table napkin?

A - Menstrual napkin, sir.

Q - You are referring to a Modess sanitary napkin?

A - Yes, sir.

Testimony of Dra. Teresa Pagilagan[31]

Q - Now, how about, positive minimal vaginal bleeding, what is that?

A - Mahinang paglabas ng dugo sa kaniyang puwerta (vaginal canal), sir.

Q - Were you able to determine the cause of that minimal vaginal bleeding?

A - I asked the patient, sir.

Q - What did she answer?

A - She has menstruation, sir.

Fourth. The testimony of Rolando de Lara puts in serious doubt his claim that they eloped on the night of May 13, 1993 when he admitted that they did not bring with them any clothes when they eloped.[32] Moreover, it is difficult to believe for sweethearts who planned to elope due to the objections of relatives to their relationship to proceed with their plan at a time when they would most likely be caught by their objecting relatives, considering that Rosabella was then with her mother, sister and other companions because they had planned to join the procession.

Fifth. Rolando de Lara claims that Rosabella did not resist his sexual advances. On the contrary, the evidence shows that Rolando threatened to kill Rosabella if she did not give in to his desire and contusions and abrasion on various parts of her body were found which, according to Dr. Pagilagan, were most likely sustained within the week prior to examination and could not have been self-inflicted. The examination also revealed that she suffered hymenal lacerations.

Accused-appellants argue further that several details of the incident testified to by Rosabella cast doubt on her credibility, particularly her claim that when she was raped, her pants and panties had been pulled down just above her knees. This circumstance, however, does not prevent a man from having intercourse with a woman, especially considering that the crime was committed in a hurry.

Accused-appellants also claim that Rosabella failed to immediately disclose the incident to her parents when the latter arrived in Kagawad Tarcena's house. As Rosabella said, however, the threat to kill her and her family made by Magno Tamares stopped her from doing so.

Rosabella said that she was afraid of Magno Tamares although the latter is her relative because she knew him to have been previously convicted and imprisoned for killing a person. That is why according to Reynaldo Tarcena, in whose house Rosabella was first taken, Rosabella refused to talk. Kagawad Araceli Tarcena said the same thing. Thus, the testimonies of the prosecution witnesses show:

Testimony of Rosabella de Lemos[33]

Q: Can you tell us why you failed to mention before the Police Officer the injuries you suffered in the hands of the abductors?

A: When I talked to him he told me if I am willing to marry Rolando de Lara, sir.

Q: Did you not first inform him that you were forcibly abducted and raped?

A: No, Sir.

Q: Did you not tell Police Officer Yuson that you were forced to go with Rolando de Lara?

A: The only question he asked me was if I am willing to marry Rolando de Lara, he never asked any other question, sir.

Q: So, Police Officer Yuson merely asked you whether you are agreeable to get married with Rolando de Lara, is that correct?

A: Yes, sir.

Q: And, what was your answer?

A: I said yes because I was threatened by Magno Tamares that if I am not going to marry Rolando de Lara I

will be killed, sir.

Q: Did you tell that to Police Officer Yuson?

A: No, sir.

Q: Was Magno Tamares present when you talked to Police Officer Yuson?

A: No, sir he was outside.

Q: And inspite of that, you did not even bother to inform Yuson or his companion that you are being threatened by Magno Tamares?

A: I am confused at that time that is why I do not know what to do then, sir.

Q: What was your confusion, may I ask Miss witness?

A: I was afraid because I will be killed by Magno Tamares, sir.

Testimony of Gloria de Lemos[34]

Q: You mentioned also Mrs. de Lemos that Magno Tamares was guarding you, is that correct?

A: Yes, sir.

Q: Was Magno Tamares when he was guarding you carrying any weapon?

A: None, sir.

Q: How did you conclude that Magno Tamares was guarding you?

A: He never left our house, sir.

....

Q: You never were threatened by the presence of Magno Tamares, is that correct?

A: I am afraid to himself (sic) because he had killed a person, sir.

Q: You are referring to?

A: Magno Tamares, your Honor.

Q: Was Magno Tamares following your every move?

A: Yes, sir.

Testimony of Reynaldo Tarcena[35]

Q: And, you are on speaking terms with Rosabella de Lemos everytime she is (sic) Cabra?

A: Yes, sir we are greeting each other.

Q: And, on that particular date when she arrived in your house together with the three accused, she did not utter a single word to you, is that correct?

A: Yes, sir that is why I was surprised.

Q: And, how many times did you attempt to talk to her on that particular hour?

A: She never talked that is why I was surprised, sir.

Testimony of Pat. Ronald Ibis[36]

Q: What did you do after Leon de Lemos cried and told you that he wants some result, what happened next?

A: I asked him what he wanted to happen, sir.

Q: What did he answer?

A: He told me what is appropriate, sir.

Q: What did you do after knowing his answer?

A: I got permission from him to talk with her daughter, sir.

Q: What is the name of the daughter?

A: Rosabella de Lemos, sir.

Q: Were you able to talk with her?

A: Yes, sir. She was still inside their room and when I went inside and upon seeing me she got hysterical, sir.

Q: And, what do you mean by hysterical?

A: She cried and crawled, sir.

Q: And who was present when you said Rosabella de Lemos became hysterical?

A: Her sister, sir and I asked her to pacify Rosabella.

Q: Did her sister pacify Rosabella?

A: Yes, sir.

Q: What happened to Rosabella when she was pacified by her sister?

A: I asked her what she feels and according to her she feels good, sir.

Q: What did you do after Rosabella told you that she is feeling good?

A: I asked her what she wants to do, sir.

Q: And what did she answer?

A: She told me she will talk upon arrival in the town, sir.

Testimony of Araceli Tarcena[37]

Q: What happened to Rosabella de Lemos after you arrived in your house?

A: When we were already in our house, I told them to sit down and I asked Rosabella de Lemos if she voluntarily went with Rolando de Lara, sir.

Q: And, what did Rosabella tell you?

A: I asked Rosabella de Lemos several times and she never answer and it was Rolando de Lara who answered, "Tia Celi, hindi niya alam na siya ay kukunin", sir.

The foregoing shows beyond doubt that Rolando is guilty of the crime of forcible abduction with rape. Article 342 of the Revised Penal Code defines and penalizes the crime of forcible abduction. The elements are: (1) that the person abducted is any woman, regardless of her age, civil status or reputation; (2) that she is taken against her

will; and (3) that the abduction is with lewd designs. Rape, on the other hand, is committed when an offender had carnal knowledge with a woman (1) by force or intimidation, or (2) when the woman is deprived of reason or is unconscious, or (3) when the woman is under 12 years of age. The carnal knowledge in the instant case was committed through force and intimidation. The prosecution proved beyond reasonable doubt that Rolando de Lara succeeded in forcibly abducting the complainant with lewd designs, established by the actual rape.[38]

In a similar case,[39] this Court held:

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 appellant 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.

The claim that Rolando and Rosabella were sweethearts and that, on May 13, they were eloping has thus no basis in fact. The question now is whether Carlito Villas, Eduardo Villas and Magno Tamares are guilty of abduction as the trial court found.

II.

We find merit in the contention of these three that the element of lewd design was not proven as to them. Nor was there conspiracy in this case. Hence, they cannot be convicted of the crime of forcible abduction. As held in *People v. Crisostomo*,^[40] to constitute abduction, the taking away of a woman against her will must be proven to have been effected with unchaste designs. Accordingly, in the case at bar, it was incumbent upon the prosecution to prove that the three accused were actuated by lewd design. The prosecution failed to do so, except with respect to Rolando de Lara.

Nor can we find any basis for the allegation of conspiracy to commit the crime of forcible abduction, much less forcible abduction with rape, even if it was proven that one of the accused harbored lewd designs. While it is enough that at least one of the accused entertained lewd design in order to convict all of them of forcible abduction, such lewd intent, however, must be known to all accused who cooperated in the commission of the felony. In the case at bar, it was not proven that Carlito Villas, Eduardo Villas and Magno Tamares had knowledge of the lewd designs entertained by Rolando de Lara.

However, we find Magno Tamares, Eduardo Villas and Carlito Villas guilty of grave coercion. This crime is committed when: (a) a person is prevented by another from doing something not prohibited by law, or that he was compelled to do something against his will be it right or wrong; (b) that the prevention or compulsion be effected by violence, either by material force or such a display of force as would produce intimidation and control the will of the offended party; (c) that the person that restrained the will and liberty of another had not the authority of law or the right to do so, or, in other words, that the restraint shall not be made under authority of law or in the exercise of any lawful right.^[41] The evidence proves that these elements are present in this case, as far as Magno Tamares, Eduardo Villas and Carlito Villas are concerned. It is noteworthy that, according to Kagawad Tarcena

and Pat. Ibis, Magno Tarcenas pleaded with them to clear him of any criminal liability. Thus -

Testimony of Araceli Tarcena[42]

Q How about Magno Tamares, did he not try to get the statement from you?

A Magno Tamares asked me to give a statement that Rosabella de Lemos voluntarily went with Rolando de Lara, sir.

Q Now, what did you tell Magno Tamares when he told you to give statement that Rosabella de Lemos voluntarily went with Rolando de Lara?

A I told Magno Tamares that I cannot give him any statement because that is against my duty as a councilwoman, sir.

Testimony of Pat. Ronald Ibis[43]

Q What did you do after that?

A While we were on our way to town Magno Tamares asked us not to leave, sir.

Q Did Magno Tamares approach you?

A Yes, sir.

Q Where did Magno Tamares approach you?

A I was in the sala of the house, sir.

Q And what did you answer if any to that plea of Magno Tamares?

A I told him that the request was to bring her to the town and I told him just to follow us in town, sir.

Q What did Tamares answer if any?

A He asked me if the matter can be settled but I told him that according to the complaining party they do not want to settle the matter, sir.

On the other hand, the defense of coincidence or accidental meeting put up by Carlito Villas and Eduardo Villas is untenable. As the trial court found:[44]

Likewise the Court cannot believe and, therefore, has to reject defense assertion of coincidence. That it was by coincidence that Carlito and Eming Villas met at a store to buy cigarettes; That it was by coincidence that Carlito and Eming Villas met Rolando and Rosabella along the way; and, that it was by coincidence that Carlito and Eming Villas went with Rolando and Rosabella all the way until the next day without even thinking of their own families.

Full faith and credence must be given to the testimony of the prosecution witnesses in the absence of any showing that they had any ill-motive to charge accused-appellants of the serious crime of forcible abduction with rape.

Rosabella had no motive to charge accused-appellants of a crime, considering that Rolando de Lara was her former sweetheart while the others were her relatives. Magno Tamares is a relative of Rosabella's father, Eduardo Villas' wife is the first cousin of Rosabella's mother, and Carlito Villas is the first cousin of Rosabella's father. If Rosabella and Rolando had really eloped, there was no reason for her to accuse Rolando and the others of forcible abduction with rape. The only logical conclusion that can be deduced from her actions is that she had a strong desire to punish the persons for the wrong they had committed against her.

Nor did Rosabella's mother have any motive to charge accused-appellants falsely. A mother would not expose her daughter's misfortune to the public if she was not motivated by an honest desire to have the culprit punished and thus vindicate her daughter's honor.[45] With respect to witnesses Reynaldo and Araceli Tarcena, there was no evidence that they harbored any ill will against accused-appellants for testifying for the prosecution.

In view of the above, we find Rolando de Lara guilty of the crime of forcible abduction with rape, while Magno Tamares, Carlito Villas and Eduardo Villas guilty of grave coercion. In like manner, only Rolando de Lara should be made liable for the amount of P50,000.00 which accused-appellants were ordered to pay as indemnity and the costs of the suit. In addition, he must likewise pay complainant the amount of P50,000.00 as moral damages. Moral damages is to be given in rape cases even if there is neither allegation nor evidence presented as basis therefor.[46]

Considering that the judgment by the trial court against Eduardo Villas had already become final and executory on account of the withdrawal of his appeal, the additional monetary award applies only to those who pursued the appeal, i.e., Rolando de Lara, Carlito Villas and Magno Tamares. However, since this Court finds Eduardo Villas guilty of grave coercion, which is a lesser offense, the penalty imposed by the trial court must likewise be modified as to him, pursuant to Rule 122, §11(a) which provides that a judgment of an appellate court which is favorable shall benefit an accused who did not join the appeal taken by his co-accused.

Parenthetically, considering that the maximum term of imprisonment for grave coercion is only six (6) months, the rules on Indeterminate Sentence Law shall not apply in this case.[47]

WHEREFORE, the decision of the Regional Trial Court, Branch 44, Occidental Mindoro, is **AFFIRMED** with the following **MODIFICATIONS**:

- (1) Accused-appellant Rolando de Lara is found **GUILTY** of forcible abduction with rape and sentenced to suffer the penalty of reclusion perpetua and to pay the offended party, Rosabella de Lemos, the amount of P50,000.00 as indemnity and P50,000.00 as moral damages;
- (2) Accused-appellants Magno Tamares and Carlito Villas are found guilty of grave coercion and sentenced to suffer three (3) months of arresto mayor medium and to pay a fine of P500.00;
- (3) Accused Eduardo Villas is found guilty of grave coercion and sentenced to suffer three (3) months of arresto mayor medium and to pay a fine of P500.00.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

[1] Per Executive Judge Fernando Z. Caunan.

[2] Rollo, p. 8.

[3] TSN (Rosabella de Lemos), pp. 4-9, May 5, 1994.

[4] Id., pp. 31-39, 44-45.

[5] Id., p. 10; TSN (Gloria de Lemos), pp. 9-18, May 6, 1994.

[6] TSN (Rosabella de Lemos) pp. 10-19, 74-77, May 5, 1994.

[7] TSN (Reynaldo Tarcena), pp. 10-24, May 4, 1994; TSN (Rosabella de Lemos), pp. 18-20, May 5, 1994.

- [8] TSN (Araceli Tarcena), pp. 15-18, Jan. 28, 1994.
- [9] Id., pp. 19-23; TSN (Rosabella de Lemos), pp. 20-21, May 5, 1994.
- [10] TSN (Araceli Tarcena), pp. 34, 40-41, Jan. 28, 1994.
- [11] Id., pp. 23-29.
- [12] TSN (Rosabella de Lemos), pp. 80-88, May 5, 1994.
- [13] Id., pp. 93-106, 118-120.
- [14] TSN (PO1 Ronald Ibis), pp. 7-13, May 10, 1994.
- [15] TSN (Dr. Teresa Pagilagan), pp. 10-29, Feb. 21, 1994; Exhibit "B".
- [16] TSN (Rosabella de Lemos), pp. 109-111, May 5, 1994; Exhibits "F-1" - "F-39."
- [17] TSN (Rolando de Lara), pp. 6-15, May 13, 1994.
- [18] TSN (Carlito Villas), pp. 4, June 7, 1994.
- [19] TSN (Rolando de Lara), pp. 14-15, May 13, 1994.
- [20] TSN (Magno Tamares), pp. 14-16, June 6, 1994.
- [21] TSN (Rolando de Lara), pp. 15-31, May 13, 1994; TSN (Carlito Villas), p. 10, June 7, 1994.
- [22] TSN (Rolando de Lara), pp. 30-43, May 13, 1994; TSN (Magno Tamares), pp. 17-18, June 6, 1994.
- [23] TSN (Rolando de Lara), pp. 46-49, May 13, 1994.
- [24] Rollo, p. 25.
- [25] Id., p. 83.
- [26] RTC Decision, pp. 5-6.
- [27] People v. Manahan, G.R. No. 128157, Sept. 29, 1999
- [28] RTC Decision, p. 4.
- [29] TSN (Reynaldo Tarcena), pp. 30-34, October 20, 1994.
- [30] TSN, pp. 14-15, May 5, 1994.
- [31] TSN, p. 15, Feb. 21, 1994.
- [32] TSN (Rolando de Lara), p. 57, May 13, 1994.
- [33] TSN, pp. 85-88, May 5, 1994.
- [34] TSN, pp. 47-49, May 6, 1994.
- [35] TSN, pp. 17-18, May 4, 1994.
- [36] TSN, pp. 7-8, May 10, 1994.
- [37] TSN, pp. 21-22, Jan. 28, 1994.
- [38] See People v. Aczon, 225 SCRA 237 (1993); People v. Bacalso, G.R. Nos. 94531-32, June 22, 1992.

[39] *People v. Castillo*, 76 Phil. 839, 841-842 (1946).

[40] 46 Phil. 775 (1923).

[41] 2 Luis B. Reyes, *The Revised Penal Code Criminal Law* 520-521 (1993).

[42] TSN, pp. 28-29, Jan. 28, 1994.

[43] TSN, pp. 8-9, May 10, 1994.

[44] RTC Decision, p. 6.

[45] See *People v. Romua*, 272 SCRA 818 (1997); *People v. Bugarin*, 273 SCRA 384 (1997).

[46] *People v. Napiot*, G.R. No. 119956, August 5, 1999.

[47] Indeterminate Sentence Law, §2.

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