

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. ALFREDO SANTIAGO, DEFENDANT AND APPELLANT.

G. R. No. 34892. August 27, 1931

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

Prosecuted for and convicted of the crime of rape, Alfredo Santiago appeals to this court making several assignments of error.

The alleged offended party, who was 18 years old when she testified, described the event from the beginning as follows:

"A.

When I opened the door, I asked him, 'Why are you here?' He said he had come back to get his driver's license, because he had had an accident. Then he said to me: 'If you wish, we will elope.' I then said to him, 'Why should I elope with you?' After I had said that to him, he lifted me up, and then I asked him: 'Why, where are you going to take me? I'll tell Ate Tentay about you.' And I tried to break away from him.

"Q.

Who is this Ate Tentay?—A. Doctor Guidote's wife.

"Q.

And did you succeed in breaking away?—A. At first, no; but as we walked, I asked him: 'Where are you going to take me?'

"Q.

So you failed to break away from him, while you were at the door, and you said you would tell Ate Tentay about him?—A. I could not break away.

"Q.

What did you do after telling him that you would tell Ate Tentay about him?—A. Nothing. He was taking me to the garage.

"Q.

How far is the garage from the kitchen?—A. About 15 meters.

"Q.

Did the accused succeed in taking you to the garage?—A. Yes, sir." (Pages 3 and 4, t. s. n.)

This narration indicates a certain prior understanding and confidence between the defendant and the offended

party, since the former, upon a sudden proposal of the former that they elope, she immediately permitted him to take her to his room in the garage. This clear indication of a previous understanding and confidence corroborates his testimony as to the love affair between them. It is also borne out by the fact that the accused succeeded in taking her from the kitchen to said garage some 15 meters away, and up ten steps to his room (page 10, t. s. n.) without her making any attempt to call for help during that time, if she was really being taken there against her will.

After carefully examining the evidence, we find that the alleged force or intimidation employed by the accused to consummate the act for which he is here prosecuted, has not been established.

As we have intimated, the record contains strong indications that said act took place with the consent of the complainant Raquel Velarde.

Not finding the guilt of the accused to be sufficiently established, the judgment appealed from is reversed and the appellant is acquitted with costs de officio and other consequential pronouncements.

As the defendant is under detention for this cause, let judgment be entered at once, without awaiting the regular period of fifteen days, ordering that he be instantly set at liberty. So ordered.

Avancena, C. J., Johnson, Street, Malcolm, Villamor, Villa-Real, and Imperial, JJ., concur.

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