

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. ANDRES SANTOS, DEFENDANT AND APPELLANT.

G. R. No. 40905. August 30, 1934

Ponente: VICKERS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-40905/>

VICKERS, J.:

The appellant was charged in the justice of the peace court of Gapan, Nueva Ecija, with the crime' of rape upon the person of Rosa Liwanag, a girl about thirteen years old. The complaint was subscribed and sworn to by Maria Calma, the mother of the offended girl. After making the corresponding preliminary investigation, the justice of the peace forwarded the case to the Court of First Instance, where the provincial fiscal filed an information charging the appellant with rape through forcible abduction, committed as follows:

"That on or about the 13th day of August, 1932, in the municipality of Gapan, Province of Nueva Ecija, Philippine Islands, and within the jurisdiction of this court, the abovenamed accused Andres Santos did by means of force and intimidation and with lewd designs take Rosa Liwanag against her will, a virgin of good reputation, from the control of her parents, and did, by means of force and intimidation and with intent to have sexual intercourse, voluntarily, maliciously, illegally and criminally embrace, kiss and drag down on the floor said Rosa Liwanag, put himself on her top and introduce his penis into her genital organ against her will."

When he was arraigned, the appellant pleaded not guilty.

After reviewing the evidence, the trial judge said:

"No obstante lo que antecede, el Juzgado no esta del todo convencido de que sin su consentimiento Rosa Liwanag fue llevada en automovil por el acusado a la casa de Benita PeYez. Es posible que al principio el acusado haya tenido que valerse de fuerza y amenaza para conseguir llevarla en automovil a la casa de Benita Perez. Pero, si ella en todo tiempo jamas consintio, ipor que, habiendo pasado por las calles principales de numerosa concurrencia y de trailead continuo, ella no gritd o dio senates para atraer la atencion de los transeuntes? El miedo no era obstaculo para ello. La gente hubiera impedido al acusado hacer dafio a Rosa Liwanag. Igualmente, el Juzgado se resiste a creer que Rosa Liwanag fue violada, porque, de ser cierto este hecho, no se comprende por quo ella, en las veces en que el acusado la dejo en la casa de Benita Perez, no se quejd del ultraje de que habia sido objeto. Si bien es verdad que ella declaro que el acusado habia amenazado con matarla, si reVelaba a Benita Perez lo que el la habia hecho en la cabana deshabitada en Santo Cristo, es, sin embargo, bastante extraordinario el que tal ultraje hubiese ocurrido sin la menor queja de su parte por espacio de tres o cuatro dias en que estuvo en la casa de Benita Perez. Se la examino el 19 de agosto de 1932, y lo que se hallo en la vagina demuestra la penetracion no violenta de un pene.

"El conjunto de las pruebas convence al Juzgado de que el acusado cometio el delito de rapto con anuencia envuelto en la querella y no el delito complejo de rapto con violacion, pues, el Juzgado es de opinion que, si bien hubo fuerza o intimidacion al comienzo del rapto, la ofendida consintio despues a ello (E. U. contra Yumul, 34 Jur. Fil., 180), asi como a los accesos carnales que tuvo en la cabana deshabitada a donde ella fue llevada por el acusado.

"La denuncia presentada por la madre de la ofendida (Exhibit B) es por violacion. Despues de la investigacion preliminar, el Juzgado de Paz del Municipio de Gapan, Nueva Ecija, hallo causa probable de que el delito cometido por el acusado era rapto con violacion. El Fiscal Provincial de Nueva JScija presento querella por rapto con violacion.

"El Juzgado es de opinidn que la denuncia (Exhibit B) confirio competencia al Juzgado para conocer de la querella y condenar al acusado, de acuerdo con las pruebas, por el delito querellado o cualquier delito envuelto en la mencionada querella. El hecho de que no hubo denuncia por el delito de rapto ya con violencia ya con anuencia no es obice para que el Juzgado pueda condenar al acusado por el delito resultante, siempre que este estuviese envuelto en la querella. La competencia que la denuncia (Exhibit B) confirid al Tribunal desde su presentation era completa."

The lower court found the appellant guilty of abduction with consent and sentenced him to suffer one year, eight months, arid twenty-one days of prision correccional, to indemnify the offended party in the sum of P500 with subsidiary imprisonment in case of insolvency, to support the offspring, if any, and to pay the costs.

The attorney for the appellant makes the following assignments of error:

"I. El Juzgado incurrid en error al apreciar y conceder valor probatorio a las declaraciones de la supuesta ofendida Rosa Liwanag y de su testigo Benita Perez, no obstante las inverosimilitudes que contienen y las graves contradicciones que se notan en ellas.

"II. Incurrid tambien en error al declarar al acusado culpable del delito de rapto con anuencia, basandose en las mismas pruebas de la acusacdn que, en opinidn del mismo Juzgado, no eran dignas de credito para sostener la acusacdn por rapto con violacdn, por sus inverosimilitudes e incongruencias.

"III. El Juzgado incurrid tambien en error al no apreciar como ciertos y verdaderos los hechos declarados por los testigos de la defensa.

"IV. Incurrid asimismo en error al no declarar que el procesamiento de! aqui acusado se debid simplemente a una trama urdida contra 61 por sentimientos de venganza.

"V. Incurrid tambien en error al condenar al acusado por el delito de rapto con anuencia no obstante la ausencia completa de toda prueba sobre la honradez o buena reputation de la ofendida Rosa Liwanag.

"Incurrio, por ultimo, en error al no absolver libremente al acusado de la querella contra el presentada."

In our view of the case we do not find it necessary to discuss the different assignments of error or to review the evidence in detail. In his brief the Solicitor-General expresses the opinion that although it clearly appears from the evidence that Rosa Liwanag was forcibly abducted by the defendant, who through force and intimidation had carnal knowledge of her, he cannot be held guilty of and sentenced for the crime of abduction with or without her consent, because under the provisions of paragraph 3 of article 344 of the Revised Penal Code the offenses of seduction, abduction, rape or acts of lasciviousness cannot be prosecuted except upon a complaint filed by the offended party or her parents; that in the case at bar the complaint filed by Maria Calma, the mother of the offended girl, describes only the offense of simple rape; that there is nothing in the allegations contained therein from which it may be deduced that abduction is also charged; that the information filed by the provincial fiscal charging the defendant with forcible abduction with rape did not confer jurisdiction upon the court of the offense of abduction. The Solicitor-General vigorously contends, however, that the evidence shows the defendant to be guilty of rape, and recommends that he be sentenced accordingly.

We entirely agree with the Solicitor-General that the filing of the complaint for rape against the defendant in the justice of the peace court did not confer any jurisdiction upon the court to try and sentence the appellant for

abduction. The trial judge was of the opinion that the complaint filed by the mother of the offended girl conferred jurisdiction upon the lower court to try and to sentence the defendant, in accordance with the evidence, for the crime charged in the information or any crime included therein; that the fact that abduction was not charged in the complaint did not prevent the trial court from condemning the defendant for that crime, provided said crime was included in the information; that the jurisdiction conferred upon the court by the complaint was full and complete. No authority is cited in support of this opinion of the trial judge, and it is manifestly contrary to the provisions of paragraph 3 of article 344 of the Revised Penal Code.

The complaint, from which the jurisdiction of the lower court was derived, reads as follows:

"DENUNCIA

"Maria Calma, habiendo prestado el debido juramento que exige la Ley, declara: Que acusa a Andres Santos del delito de violacion cometido como sigue:

"Que en o hacia el dia 13 de agosto de 1932 en el Municipio de Gapan, Provincia de Nueva ficija, y dentro de la jurisdiccidn de este Juzgado, el referido acusado, voluntaria, ilegal y criminalmente y usando f uerza, violencia e intimidacion, yacio a Rosa Liwanag nina de 13 anos de edad contra la voluntad de la misma.

"Hecho cometido con infraccion de la Ley.

"MARIA (Thumb mark) CALMA

"Denunciante

"Suscrita y jurada ante mi hoy 20 de agosto de '1932.

(Firmado)

"PANFILO B. MORALES

"Juez de Paz"

It is clear that abduction is not included therein. As the Solicitor-General well says, there is nothing in the allegations thereof from which it may be deduced that abduction was also charged. Our conclusion is that the lower court had no jurisdiction to try and sentence the appellant for the crime of abduction with consent. We might add, however, that in our opinion the offense committed was correctly found by the lower court to be abduction with consent.

With respect to the contention of the Solicitor-General that the appellant is guilty of rape, we are agreed that the evidence falls far short of proving the appellant guilty of that charge. As already indicated, we agree with the trial judge that it was with the consent of the offended girl that she was taken to the house of Benita Perez, where she remained for five days. We think she remained there voluntarily. We cannot believe that the alleged threats of the appellant were sufficient to prevent her from making any attempt to escape, taking into consideration the location of this house, not far from a public school, and the fact that the offended girl was not prevented by Benita Perez or any one else during the day, when the appellant was absent, from leaving that house and going home. When the appellant took the offended girl away from the house of Benita Perez each evening for the purpose of having carnal intercourse with her, it does not appear that the offended party refused to go with the appellant or offered any resistance, or invoked the help of Benita Perez or the latter's daughter.

For the foregoing reasons, the decision of the lower court, finding the appellant guilty of abduction with consent, is set aside and the case is dismissed, with the costs de oficio, without prejudice to the filing by the offended party or her mother of a complaint for abduction with consent, because the appellant has not been placed in jeopardy for that offense on a valid complaint.

Street, Abad Santos, Hull, and Diaz, JJ., concur.

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.