

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROSARIO JAMES TUMALIUAN Y PAGUIRIGAN,
DEFENDANT-APPELLANT.**

G.R. No. 58818. June 22, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

About 3 o'clock in the afternoon of December 2, 1979, complainant Tessie P. Ramos, 20 years old, single and a first year secretarial course student of Cagayan Teachers College in Tuguegarao, Cagayan, took a bus from Catugay, Baggao, Cagayan for Tuguegarao, Cagayan. One of the passengers in the bus was appellant Rosario James Tumaliuan who sat beside complainant. During the trip, appellant introduced himself as James Tumaliuan to complainant who, in turn, introduced herself to him. The two had on and off conversation during the entire trip to Tuguegarao. Before the bus reached Iguig, Cagayan, appellant proposed to complainant who rejected him outright, saying she already had a boyfriend. He replied that her having a boyfriend would not discourage him from intensifying his love for her. When the bus reached its station at Balzain, Tuguegarao at around seven o'clock in the evening, complainant alighted and called for a tricycle. Appellant closely followed and offered to escort her to her boarding house. She refused but appellant insisted and pleaded to allow him to join her in the tricycle. She ignored him but, later on, relented and appellant joined her ride to Caritan Sur, Tuguegarao.

After the tricycle had passed Balzain bridge, appellant ordered the driver to bring them instead to Buntun, Tuguegarao. Complainant opposed and insisted that she be brought to her boarding house at Caritan Sur. Appellant in a loud voice told the driver that he is an NBI agent. Scared, the driver followed and drove the tricycle to Buntun as directed. Appellant muffled all her cries by covering her mouth with his right hand and tightly held her neck with his left arm. Upon reaching Buntun bridge, appellant ordered the driver to stop. Appellant got off, and pulled complainant out of the vehicle and directed the driver to go away.

Appellant then dragged complainant thru the left side of the road under the Buntun bridge. She fought back by kicking and pushing him but the latter hit her with his fist on the stomach causing her to fall on the ground. She became weak and felt dizzy. He then removed her pants and panty, held her neck and thereafter removed his pants and brief. Then he placed himself on top of her until he succeeded in having carnal knowledge with her.

Appellant stood up, put on his pants and then left in a hurry. Recovering her strength complainant groped for her panty and pants and wore them back. She took a tricycle passing by the bridge and was taken to her boarding house at Caritan Sur. Proceeding to her room, she broke down and cried. The following morning, December 3, 1979, she wrote to her mother, Paula Ramos, at Baua, Gonzaga, Cagayan inviting her to come over immediately without fail because something terrible had happened to her. Upon receipt of the letter on December 7, 1979, Paula Ramos, arrived at the boarding house. Upon seeing her mother, complainant told her and her co-boarders what had happened to her.

Paula Ramos brought her daughter to Pedro Carodan, their wedding sponsor, and the latter accompanied them to

the police station at Tuguegarao. The police blotter reflects the charge of rape filed by herein complainant against appellant. She was then accompanied by a peace officer to the Cagayan Provincial Hospital where she was physically examined by Dr. George Bernales.

On December 11, 1979 appellant went to see Paula Ramos and complainant at the residence of Pedro Carodan for a possible amicable settlement of the case. He asked for forgiveness and offered marriage to complainant who, however, stood firm in her decision to push through the case.

In his defense, appellant claims that he first met complainant in the afternoon of mid-October 1979; that in their third meeting in the same month, complainant became his sweetheart. On November 30, 1979, Tessie gave her body voluntarily as lovers do at the Ramos' residence in Baua, Gonzaga, Cagayan. The sexual act was repeatedly done by them in different positions in the second floor of her residence. He claims that their parents allowed them to sleep together as husband and wife even without the benefit of marriage; that in the afternoon of November 30, 1979 his wife, Zenaida Consejo, caught him and complainant in a compromising situation inside the latter's room.

Further, appellant declares:

"In the morning of November 30, 1979, he went to visit Tessie in her boarding house, staying there for a long time because Tessie cooked food for their lunch. In the house, he stayed in the room of Tessie and there Tessie went out giving everything to him - she completely surrendered herself for him to ravish.

"About 2:00 p.m. on that after-noon (November 30, 1979), his wife, Zenaida Cancejo Tumaliuan (Zenaida for brevity hereinafter) caught him in the room of Tessie together with the latter when he opened the door after a knock. His wife asked him why he was there when he was supposed to be in his place of work. He said nothing in answer to his wife's question as he was speechless, but stayed just to wait for Tessie's mother who promised a day before and while they were in Baua, Gonzaga, to follow them (he and Tessie) to Tuguegarao on the next day. The mother arrived in fact on November 30, 1979, seeing James' wife there waiting in the sala very near Tessie's room doing nothing there and Tessie cried and met her mother. Tessie, her mother and James' wife then talked to each other.

"It could not have been possible that he was with Tessie and did the acts complained of to have been done by James to her on December 2, 1979, because after his wife discovered him to be with Tessie in the House of Engracia Zinampan, on November 30, 1979, he returned home in Atulayan without going out even just a little moment until 6:00 p.m. of December 5, 1979. He admitted that he went to the house of Mr. Pedro Carodan in the evening of December 11, 1979, when Paula Ramos, Tessie's mother was there, not to propose marriage to Tessie as testified to by Mr. Carodan, but to ask the forgiveness of Paula Ramos for having allowed him to sleep with Tessie, but he was surprised when he was taken by arresting officers and placed inside the cell since then. x x x" (pp. 12-13, Appellant's Brief)

After trial, the court a quo rendered its decision dated September 28, 1981, convicting appellant of the crime charged and sentencing him, thus:

"WHEREFORE, premises considered, this Court finds the herein accused ROSARIO JAMES TUMALIUAN Y PAGUIRIGAN guilty beyond reasonable doubt of the crime of Forcible Abduction as described and penalized by Art. 342, Revised Penal Code and of Rape as described and penalized by Par. (1), Art. 335, Revised Penal Code as charged in the Information and in relation to Art. 48, also of the Revised Penal Code, he is hereby sentenced to reclusion perpetua, to pay exemplary damages in the amount of TEN THOUSAND PESOS (P10,000.00) Philippine Currency and the amount of FIFTEEN THOUSAND (P15,000.00) PESOS, Philippine Currency as moral damages to the herein private complainant, Tessie P. Ramos, and to pay the costs." (p. 223, Record)

Hence, this appeal, appellant Rosario James Tumaliuan alleging that the lower court erred: (1) in not having found

that the charge was a product of afterthought and merely done to avenge the deceit perpetrated by the appellant in succeeding to have carnal knowledge of complainant who voluntarily gave herself not knowing that appellant was married; and, (2) in having convicted appellant notwithstanding the failure of the prosecution to prove his guilt beyond reasonable doubt and in not having taken into consideration certain prosecution evidence that tends to dispel rather than prove its case.

We are convinced that the guilt of accused-appellant has been proven beyond reasonable doubt. As aptly stated by the Solicitor General "it is difficult to believe that complainant who is young and unmarried would tell a story of defloration, allow the examination of her private parts, and thereafter present herself to be the subject of a public trial, if she was not motivated by an honest desire to have the culprit apprehended and punished." (p. 19, Appellee's Brief) The medical examination on complainant Tessie P. Ramos conducted on December 8, 1979, six (6) days after the commission of the crime, shows "deep corrugation at 9 o'clock" and "labia slightly coaptated" (Exhibit "E"). And, no motive was shown why the complainant would accuse him as her ravisher which caused her to suffer day and night in anguish, shame and humiliation. Further, the fact that appellant purposely went to see complainant and her mother for the settlement of the case strongly indicates a guilty conscience.

On the other hand, defense evidence is unworthy of belief. His claim that within two weeks Tessie became his girlfriend is simply incredible considering that no evidence have been shown that complainant is of loose morals and one who will easily accept a proposal of love in so short a time. Appellant has not presented a single letter, note or any piece of evidence to support his claim that she was his sweetheart. Not having presented any evidence other than appellant's testimony that the act of sexual intercourse, was voluntary, the declaration of the offended party, corroborated by the testimonies of Dr. Elinor M. Tan, Station Commander Pedro Carodan and PC Member Nicolas Bariao, assumes more weight and importance and to which We give full credit. And, on top of it all, it is hard to believe that the parents of complainant would allow them to live as husband and wife in their own residence without the benefit of marriage. It is still the barrio-way of life where the Ramoses reside that people are morally upright and would not allow any stigma or shame to sow in the family. The Ramoses are country folks who would be embarrassed to create a scandal. A slight indecent movement in the barrio would cause neighbors' tongues to wag or tell unceasing stories.

WHEREFORE, the decision appealed from is **AFFIRMED** in toto. Costs against appellant.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Gutierrez, Jr., and De la Fuente, JJ., concur.

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