

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGELIO RAMOS Y CABAYU, ACCUSED-APPELLANT.*G.R. No. 68209. December 21, 1993*

Ponente: BELLOSILLO, J.

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Accused ROGELIO RAMOS Y CABAYU, a 36-year old Bible History teacher and principal of a Catholic high school, was charged before the Regional Trial Court of Sanchez Mira, Cagayan, with the rape of one of his graduating students, 16-year old Soledad Puzon. His defense is that the young Cagayana voluntarily submitted herself to him in exchange for allowing her to graduate after she was allegedly found to have taken a "Crispa" t-shirt belonging to a classmate.

The trial court did not believe the accused.[1] It convicted him of rape, sentenced him to reclusion perpetua and to pay the offended party moral damages in the amount of P10,000.00.

Like the trial court, we find the accused guilty.

Testifying in her native dialect Ibanag, Soledad Puzon, a 16-year old fourth year high school student of the Lyceum of Abulug, Cagayan, narrated that she was instructed by the accused, who was her school principal and teacher in Bible History, C.A.T. and Pilipino, to bring her parents to his house on 20 September 1981 at around two o'clock in the afternoon as she was being accused of stealing a T-shirt belonging to a classmate,[2] and that if she failed to bring her parents, she would not be admitted to class the following school day.[3] However, she could not take her parents along that appointed day and time as her mother had a headache. Nonetheless, she proceeded to the house of the accused to inform him that she and her parents would see him the following Monday morning instead.[4] As she reached the house of her principal?teacher, she stood outside the roadside and delivered to him the message that her mother could not make it that afternoon. But she could hardly be heard because of the lingering wind from a weakening storm. The accused asked her to go inside the house. She innocently obliged.[5] Unfortunately, his wife and children were not in the house. They were supposedly in Laoag for the interment of a relative.[6] Upon reaching the balcony, the accused suddenly pulled her and brought her to the bedroom. She struggled but the accused overpowered her and boxed her on the stomach. There she was ravished until his lust was satisfied.[7] The accused then allowed her to leave but not before threatening her with expulsion from school should she squeal.[8] Afraid, she went home and did not report the incident to anyone. Two days later, not being able to control herself, she recounted her ordeal to two friends in school, Melinda Maguddatu and Lita Dumayas, who commiserated with her. When Mr. Daquioag, a first cousin of her mother and an instructor in school, saw her crying with her friends, he inquired what was wrong. Unable to keep it bottled inside any longer she narrated her ordeal. When her parents saw her crying, she also told them what happened.[9]

On 24 September 1981, she executed a sworn statement before P/Cpl. Antero Tapiru.[10] On 25 September 1981, she underwent a gynecological examination performed by Dr. Lydia S. Depra-Ramos, Municipal Health Officer of Abulug, which yielded the following findings: "External genitalia showed defloration with slight swelling of

the mons pubis; [I]ntroitus revealed a hymen with healed laceration, showing sharp coaptible borders without congestion; admits easily one finger; [S]mear from vaginal fornices examined and revealed no spermatozoa." [11] On 29 September 1987, she signed and then filed her complaint for rape. [12]

On the other hand, the accused testified that the complaining witness admitted having stolen the T-shirt, and in the afternoon in question, voluntarily offered her womanhood in exchange for the chance to graduate. [13] Hence, despite the fact that he was fully aware of his position as principal of the school in which complaining witness was a student and at the same time the latter's teacher, he was unable to resist the tempting offer she presented with her open dress and sweater. [14]

In this appeal, accused-appellant contends that the trial court erred in accepting with precipitate credulity the testimony of the complainant as the true version of what transpired between her and the accused that fateful afternoon.

We have said time and again that in rape cases it is not unusual for conviction or acquittal to depend almost entirely on complainant's testimony due to the extremely private nature of the offense. [15] In fact, more often than not, the issue boils down to credibility. The findings of the trial court on credibility, by reason of its opportunity to observe the manner and deportment of witnesses when they testify, are generally viewed as correct and entitled to the highest respect, except where it appears that some facts of weight and substance have been overlooked, misunderstood or misapplied by the court. [16]

An examination of the records shows that the trial court was not remiss in this regard. It did not overlook, misunderstand nor misapply any fact of weight and substance. On the contrary, we agree with its findings that complainant's account was entirely credible as evident from the transcript of stenographic notes. As the trial court clearly observed, her account was given in a clear and straightforward manner. Hence, the argument that there are inconsistencies between the sworn statement of Soledad given before P/Cpl. Tapiru and her testimony in open court deserves scant consideration since it is not an uncommon phenomenon that affidavits are prepared by someone other than the affiant himself, and thus they are usually incomplete due to suggestions, or want of suggestions and inquiries necessary for the accurate recollection of all relevant details. [17] And as a consequence of this expected inaccuracy, it has been consistently held that in case of conflict between an affidavit and court testimony, the latter prevails. [18] Certainly, this is not fatal to the cause of the prosecution. After all, the supposed discrepancies merely refer to minor and trivial matters resulting from the natural fickleness of memory which tend to strengthen rather than weaken credibility as they erase any suspicion of a rehearsed testimony. [19]

Moreover, we subscribe to the accepted and well-reasoned belief that no young and decent Filipina would willingly undergo the expense, trouble and inconvenience of a public trial, suffer the scandal, embarrassment and humiliation that such an action entails, as well as allow an examination of her private parts if her motive were not to bring to justice the person who had abused her. [20]

Even if we give serious regard to the claim of the accused that Soledad told him that "(he) can do what (he) like(s) to her" if only to allow her to graduate, [21] still he had to use force in making her submit to him. The rebuttal testimony of Soledad is revealing -

"Private Prosecutor Taala:

Q Thereafter he testified that you voluntarily submitted yourself to a sexual intercourse?

Soledad Puzon:

A No, sir.

Q What do you mean by no?

A I did not offer myself to him, sir.

Court:

Q What really transpired?

A It was an accident. I did not consent to what he did to me, sir.

Q What do you mean by accident?

A I did not know that that was his intention to me, sir.

x x x x

Defense counsel Carrao:

Q So you are not in a position to know if there were others inside the room or the other rooms. Is that correct?

A Because when I was trying to resist from him he told me why are you afraid there are no other persons here because I am alone while a typhoon was going on.

Q In other words Rogelio Ramos even told you that you should not be afraid. Is that correct?

A Because when I tried to resist him I told him that I will report him to my parents. I said why are you not ashamed of them but he boxed me, sir.

Q Despite the fact that he even told you that you should not be afraid he went to the extent of boxing you?

A Yes because I tried to fight him he boxed me here, sir."[22]

This is rape through force; for, at that time, contrary to the claim of the accused, Soledad did not offer her maidenhood to him, and the latter had no reason to take it from her against her will. He was the school principal and her teacher in Bible History and other subjects. He had no business having sexual intercourse with his student even assuming she had told him that he could do whatever he wanted with her in exchange for an opportunity to graduate. For one, she did not mean by that statement to include sexual intercourse. Thus, he had to use force.

Likewise flawed is the contention that it is not possible for rape to be committed in a house located at the most thickly populated area in the community where the neighbors could easily hear a woman scream, especially at two o'clock in the afternoon. For rape can be committed even in places where people congregate -- in parks, along the roadside, within school premises, and even inside a house where there are other occupants.[23] The neighbors need not hear the screams of the offended party for rape to be consummated. It can be committed even at noontime,[24] for lust is no respecter of time or place.[25]

Aside from the fact that the accused could not presume what his neighbors were doing at 2 o'clock in the afternoon and conclude that they were wide awake in their houses, the complaining witness testified that whenever she tried to scream the accused covered her mouth and punched her in the stomach, effectively stiffling her outcries.[26] The trial court found this credible; and rightly so. For it must be stressed that the law does not impose a burden on the rape victim to prove resistance; what needs only to be proved is the use of force or intimidation by the accused in having sexual intercourse with the victim.[27] The accused then questions the sufficiency of the prosecution evidence to prove force, and that aside from the absence of physical violence on the person of complainant, the torn underwear presented to establish violence was submitted to the police only four (4) days after the alleged rape.

The absence of marks of violence on complainant's body does not, by itself, negate rape.[28] This is explained in the case of Soledad by the fact that she was examined five (5) days subsequent to the dastardly act, or on 25 September 1987, only after she had mustered enough courage to disclose her ordeal to her parents. Understandably, by that time, what bruises she might have sustained by reason of the force exerted by appellant may have already disappeared. Indeed, the accused did not even have to exert much effort to cow Soledad into submission considering his undeniable moral ascendancy[29] over her, the fact that she was then being investigated by the accused regarding a stolen T-shirt, and her determination to graduate from high school. To our mind, these circumstances put together undermined her innate resistance.

For sure, a life behind bars for thirty years or so is a heavy penalty considering that the accused is supposed to be a man of wisdom and virtue, tasked to guide the young and the innocent; consequently, he is expected to leave the confines of his prison walls already an old man. But this is a just punishment for a school administrator and mentor who, taking advantage of his otherwise lofty position, ravaged a young girl entrusted to his care, and now destined to a lifetime of bitterness over her coerced debauchment.

There being no reason to reverse the factual findings of the court a quo, we accordingly affirm its conclusion that the accused-appellant Rogelio Ramos y Cabayu is indeed guilty of having raped his 16-year old student Soledad Puzon. And, conformably with recent jurisprudence and the attendant circumstances, the moral damages of P10,000.00 awarded to the offended party should be increased to P30,000.00.

WHEREFORE, the decision appealed from finding the accused-appellant ROGELIO RAMOS Y CABAYU guilty beyond reasonable doubt of the crime of rape is AFFIRMED with the modification that the award of moral damages is increased from P10,000.00 to P30,000.00.

Costs against accused-appellant.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., and Quiason, JJ., concur.

[1] Decision penned by Judge Infante S. Calaycay, RTC, Br. 12, Sanchez Mira, Cagayan, promulgated 26 March 1984.

[2] Id., pp. 22-23.

[3] Id., p. 7.

[4] Id., p. 23.

[5] Id., p. 8.

[6] Id., 12 July 1983, pp. 5-6.

[7] Id., 18 May 1983, pp. 9-12.

[8] Id., p. 13.

[9] Id., pp. 15, 20.

[10] Exh. "1"; Orig. Rec., p. 3.

[11] Exh. "C"; Id., p. 2.

[12] Exh. "B;" Id., p. 1.

[13] Id., pp. 7, 11-12.

[14] Id., p. 25.

[15] *People v. Castillon*, G. R. No. 100586, 15 January 1993, 217 SCRA 76, 82; *People v. Dabon*, G. R. No. 102004, 16 December 1992, 216 SCRA 656, 662-663; *People v. Sarda*, G. R. No. 74479, 24 April 1989, 172 SCRA 651, 658; *People v. Alcid*, G. R. Nos. 66387--88, 28 February 1985, 135 SCRA 280; *People v. Lor*, G. R. Nos. L-47440-42, 12 September 1984, 132 SCRA 41, 52.

[16] *People v. Gabatin*, G.R. No. 84730, 28 October 1991, 203 SCRA 225, 232.

[17] *People v. Dabon*, G. R. No. 102004, 16 December 1992, 216 SCRA 656, 662-663; *People v. Mabunga*, G. R. No. 96441, 13 November 1992, 215 SCRA 694, 703; *People v. Carson*, G. R. No. 93732, 21 November 1991, 204 SCRA 266, 271; *People v. Custodio*, G. R. No. 92630, 27 May 1991, 197 SCRA 538, 544; *People v. Sarda*, G. R. No. 74479, 24 April 1989, 172 SCRA 651, 658; *People v. Managbanag*, G. R. No. 66550, 27 November 1987, 155 SCRA 669, 674.

[18] *People v. Bondoy*, G. R. No. 79089, 18 May 1993; *People v. Mabunga*, G. R. No. 96441, 13 November 1992, 215 SCRA 694, 703.

[19] *People v. Wagay*, G.R. No. 98154, 9 February 1993, 218 SCRA 742.

[20] *People v. De Guzman*, G.R. Nos. 102409-10, 21 December 1992, 216 SCRA 754, 759; *People v. Guibao*, G.R. No. 93517, 15 January 1993, 217 SCRA 64, 72-73; *People v. Villorente*, G.R. No. 100198, 1 July 1992, 210 SCRA 647, 658.

[21] TSN, 12 July 1983, p. 11.

[22] Id., 16 January 1984, pp. 7-10.

[23] *People v. Dabon*, G. R. No. 102004, 16 December 1992, 216 SCRA 656, 662-663; *People v. De Los Reyes*, G. R. No. 85771, 19 November 1991, 203 SCRA 707, 723.

[24] *People v. Avanzado, Sr.*, G. R. No. 73116, 29 February 1988, 158 SCRA 427, 436.

[25] *People v. Dabon*, G. R. No. 102004, 16 December 1992, 216 SCRA 656, 662.

[26] TSN, 18 May 1982, pp. 9, 11, 28-29.

[27] *People v. Dinola*, G. R. No. 54567, 22 March 1990, 183 SCRA 493, 501.

[28] *People v. Rabanes*, G. R. No. 93709, 8 May 1992, 208 SCRA 768, 777; *People v. Fabro*, G. R. No. 79673, 15 November 1990, 191 SCRA 386, 393; *People v. Barcelona*, G. R. No. 82589, 31 October 1990, 191 SCRA 100, 105; *People v. Viray*, G.R. No. 41085, 8 August 1988, 164 SCRA 135, 141.

[29] *People v. Matrimonio*, G. R. Nos. 82223-24, 13 November 1992, 215 SCRA 613, 631; *People v. Natan*, G. R. No. 86640, 25 January 1991, 193 SCRA 355, 364; *People v. Alcid*, G.R. Nos. 66387--88, 28 February 1985, 135 SCRA 280; *People v. Erardo*, G. R. No. L-32861, 31 January 1984, 127 SCRA 250.

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